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# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 104

DATE: Tuesday, May 16th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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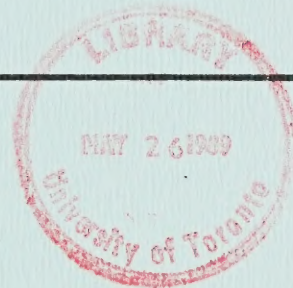
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----  
Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Tuesday, May 16th,  
1989, commencing at 10:00 p.m.

-----  
VOLUME 104

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

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MS. Y. HERSCHER )	
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MR. R. BARNES )	ASSOCIATION
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MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	





APPEARANCES: (Cont'd)

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MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN TRUMAN ALLIN,</u>	
<u>PETER PHILLIP HYNARD,</u>	
<u>RICHARD BRUCE GREENWOOD,</u>	
<u>CAMERON D. CLARK,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>WILLIAM DOUGLAS BAKER,</u>	
<u>ROBERT ELLIOTT,</u>	
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I N D E X     O F     E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
584	Update of Exhibit No. 149.	17328
585	MOE Interrogatory Question Nos. 1-7, 9, 10, 13-23 (Panel No. 11).	17348
586	Copy of document entitled: Transaction of the American Fisheries Society.	17453
587	Table of Contents from Lake of the Woods Fishery Study.	17462
588	Brief entitled: Response to Class Environmental Assessment for Forest Management on Crown Lands in Ontario, prepared by OFAH.	17473
589	Document entitled: Canadian Forest Sector Strategy.	17489





1       ---Upon commencing at 10:05 a.m.

2                   THE CHAIRMAN:  Good morning, everyone.  
3       Please be seated.

4                   JOHN TRUMAN ALLIN,  
5                   PETER PHILLIP HYNARD,  
6                   RICHARD BRUCE GREENWOOD,  
7                   CAMERON D. CLARK,  
8                   FRANK D. KENNEDY,  
9                   WILLIAM DOUGLAS BAKER,  
10                  ROBERT ELLIOTT,  
11                  RONALD ORVAL WAITO,  
12                  DAVID M. HOGG, Resumed

13                  MS. CRONK:  Good morning, Mr. Chairman.

14       Mr. Chairman, there are a number of outstanding matters  
15       from yesterday and the first is the filing of the copy  
16       of Exhibit 583 which you will recall were the  
17       interrogatory responses.

18                  THE CHAIRMAN:  Right.

19                  MS. CRONK:  (handed)

20                  THE CHAIRMAN:  Thank you.

21                  MS. CRONK:  The second matter, Mr.

22       Chairman, you will recall, related to certain  
23       information that I had requested the panel to provide  
24       today if they were able to do so.

25       FURTHER CROSS-EXAMINATION BY MS. CRONK:

26                  Q.  There were three questions, and  
27       perhaps I could just revisit them and if the  
28       information is available today then you could give it  
29       to me now, and if not then I will return to it later

1 with your indulgence.

2 The first I believe, Mr. Hynard, was a  
3 question directed to you and I had asked what the area  
4 in square kilometres or in hectares, whatever  
5 measurement was available to you, was represented by  
6 the FMAs in the area of the undertaking.

7 Do you have that figure this morning?

8 MR. HYNARD: A. Yes, I do, and that  
9 number is shown on page 18 of Exhibit 394 which is the  
10 statistics -- the MNR statistics book for 1987/88. And  
11 the total area held under FMA at that time was 177,293  
12 square kilometres.

13 Q. And that is as at what date, Mr.  
14 Hynard?

15 A. That's as of March 31st, 1988.

16 Q. Thank you. The second question  
17 related to Exhibit 149, which you recall had been  
18 introduced during the evidence of Panel 4 - and I  
19 confess, I now can't recall whether I put the question  
20 to Mr. Waito or to Mr. Hynard - but, in either event, I  
21 had asked first, what your expectation would be if the  
22 graph showing the contribution of the FMA program to  
23 regeneration levels compared to the total Crown  
24 regeneration effort, what it would look like if the  
25 graph was updated.



1                   And it seems I put the question to you,  
2           Mr. Kennedy; did I? Are you in a position to respond  
3           to that this morning?

4                   MR. KENNEDY: A. Yes, I am. I am also  
5           in a position to provide an updated version of the  
6           graph that shows the 1987 program.

7                   Q. Thank you very much.

8                   MS. CRONK: Mr. Chairman, I ask that this  
9           be marked as the next exhibit, please.

10                  THE CHAIRMAN: Exhibit 584.

11                  MS. CRONK: (handed)

12                  THE CHAIRMAN: Thank you.

13                  MR. FREIDIN: What is that going to be  
14           entitled, Mr. Chairman?

15                  THE CHAIRMAN: It contains the two  
16           sheets. What do you want to call it, the comparison of  
17           FMA regeneration and tending programs?

18                  MS. CRONK: I think it is really an  
19           update, sir, in that respect and perhaps we could just  
20           indicate update of Exhibit 149. Would that be easier?

21                  THE CHAIRMAN: Okay.

22           ---EXHIBIT NO. 584: Update of Exhibit No. 149.

23                  MS. CRONK: Q. Mr. Kennedy, could you  
24           please explain for the Board what the differences are  
25           between -- briefly, if there is any pertinent points

1       you wish to draw to the Board's attention between the  
2       update and the original Exhibit 149 that was introduced  
3       last year?

4                       MR. KENNEDY:   A.   Yes.   The change is  
5       that I have added the data that is for the year 1987.  
6       As a result, for the first graph, the regeneration  
7       program, the figures shown is that the forest  
8       management agreements have contributed 63 per cent of  
9       the total regeneration program on Crown land.

10                      Q.   I'm sorry, Mr. Kennedy, could you  
11       repeat that.   I didn't hear you.

12                      A.   The change on this particular graph  
13       is that I have added on the 1987 data and that shows  
14       that the FMA holders have completed 63 per cent of the  
15       regeneration program on Crown land.

16                      Q.   And with respect to the tending  
17       graph?

18                      A.   Similarly, we have added on the 1987  
19       data and this shows that the FMA holders completed 60  
20       per cent of the tending program on Crown land.

21                      Q.   Thank you very much.   And then  
22       finally, Mr. Waito, I believe this was a question  
23       directed to you at the end of the day or towards the  
24       end of the day yesterday and it concerned, you will  
25       recall, Exhibit 547 which was an interrogatory response

1 to Interrogatory No. 14 from the OFIA and the Ontario  
2 Lumber Manufacturers' Association.

3 I had put to you certain mathematics  
4 about the forecast for future nursery stock production,  
5 I had asked you to confirm that they were within the  
6 range of accuracy. What in fact are the numbers  
7 bearing in mind the questions I put to you yesterday?

8 MR. WAITO: A. Okay. I have looked at  
9 the numbers and according to my calculation the total  
10 reduction to the number of trees for tree planting on  
11 Crown lands in the area of the undertaking, and the  
12 reduction from 1989 to 1990, is approximately  
13 8.8-million trees.

14 Q. 8.8?

15 A. 8.8-million.

16 Q. It just goes to show that sometimes  
17 we can be close to being right.

18 A. Right.

19 Q. Thank you very much.

20 A. You're welcome.

21 MR. CRONK: Thank you, Mr. Chairman,  
22 Those are my questions.

23 THE CHAIRMAN: Thank you.

24 MR. FREIDIN: Mr. Chairman, if I might  
25 just take a moment to speak to Exhibit 577 which is my



1 letter with the revisions to Exhibit 489 and 492. I  
2 have spoken with representatives of the OFAH and NOTOA,  
3 and they have indicated that they do not desire to ask  
4 any questions on the documents. However, I have been  
5 advised that OFIA/OLMA wish to ask a few brief  
6 questions.

7 Not having heard from all the full-time  
8 parties, Mr. Chairman, and having some regard to my  
9 letter indicating that it was tomorrow that that  
10 cross-examination would take place, I would ask that we  
11 proceed with that matter at the beginning of tomorrow  
12 so as to hopefully get it out of the way and have those  
13 witnesses that weren't required to be here go on their  
14 way.

15 THE CHAIRMAN: Okay. If you would remind  
16 us in the morning we will do that first thing.

17 MR. FREIDIN: Thank you.

18 THE CHAIRMAN: Mr. Freidin, just before  
19 we continue with Mr. Edwards -- I understand, Mr.  
20 Edwards, you are going to be about 15, 20 minutes.

21 MR. EDWARDS: Less than 15 minutes, Mr.  
22 Chairman.

23 THE CHAIRMAN: All right. The Board was  
24 wondering whether or not the Ministry has found out any  
25 further information about the Geraldton Land Use

1 Guidelines which the Ministry indicated weren't theirs  
2 a few days ago and it indicated on the face of the  
3 document that they were the Ministry's. The Board is  
4 curious as to what happened to the disposition of that  
5 item.

6 MR. FREIDIN: That guideline was never  
7 authorized for release. It ended up in the bookstore  
8 through inadvertence from the warehouse. It is not a  
9 released district land use guideline and doesn't have  
10 any official status.

11 THE CHAIRMAN: All right.

12 MR. FREIDIN: That's all I can advise you  
13 at the present time.

14 THE CHAIRMAN: But it was prepared, I  
15 take it, by Ministry staff or under Ministry staff  
16 guidance?

17 MR. FREIDIN: That's correct.

18 THE CHAIRMAN: Although it never got to  
19 the approval stage; is that what you are saying  
20 effectively?

21 MR. FREIDIN: I am not sure whether I  
22 need to make a distinction between the approval or the  
23 release. It certainly has not been approved, if we  
24 take approved as being an indication that it is a  
25 document which is released to the public and to be

1 used.

2 THE CHAIRMAN: Okay. Thank you.

3 Mr. Edwards?

4 MR. EDWARDS: Thank you, Mr. Chairman.

5 Mr. Chairman, I advised Mr. Mander this morning I would  
6 be referring to one exhibit only, which is Exhibit 469.  
7 I believe the Board and my friends are aware of that.

8 CROSS-EXAMINATION BY MR. EDWARDS:

9 Q. I would like to ask Mr. Clark a very  
10 few questions, sir. In your statement, witness  
11 statement on this panel, sir, at page 823. Sir, do you  
12 have that?

13 MR. CLARK: A. Yes, I do.

14 Q. All right. Sir, the statement  
15 underlined at the bottom:

16 "In reviewing the tables it should be  
17 understood that the majority of potential  
18 negative socio-economic effects are  
19 assumed to occur in the absence of  
20 appropriate environmental management."

21 A. That's correct.

22 Q. Is that your statement, sir?

23 A. That is my statement.

24 Q. And, sir, do you have Exhibit 469  
25 available to you?



1 A. I do.

2 Q. And at page 1 -- do you have the  
3 first page there, sir, which describes the  
4 stakeholders, the ones particularly referred to on that  
5 page are mining and tourism?

6 A. Yes, I do.

7 Q. Do you have that?

8 A. Yes.

9 MR. EDWARDS: Do the Board members have  
10 that?

11 THE CHAIRMAN: (nodding affirmatively)

12 MR. EDWARDS: Q. Sir, with respect to  
13 the first of the two statements, at the bottom of page  
14 823 it suggests that:

15 "...the majority of potential negative  
16 socio-economic effects are assumed to  
17 occur in the absence of appropriate  
18 environmental management."

19 Which ones, sir, would be inevitable?

20 MR. CLARK: A. I don't know that any  
21 would be inevitable.

22 Q. Can you identify particular effects  
23 which are in the minority; that is to say, that would  
24 occur even in the presence of appropriate environmental  
25 management?

1                   A. Well, I think -- yes, I think I can  
2 speak to that issue relative to tourism in the context  
3 of both harvest and renewal.

4                   If you look back at Exhibit 469, the  
5 first page dealing with tourism, I make specific  
6 reference to losses of remoteness and aesthetics, and I  
7 believe that in my evidence in Panel 10 I indicated  
8 that as a result of harvest, associated access, and  
9 other silvicultural activities there is the potential  
10 for some loss of remoteness and some change in the  
11 aesthetics of the site, it's almost inevitable.

12                  And I think that the other point that I  
13 made was that there would unquestionably in some  
14 instances be a need for the -- notwithstanding the  
15 application of the various guidelines that we have,  
16 there would be a need for the tourism industry to make  
17 some accommodations in areas that had been hitherto  
18 inaccessible.

19                  Q. I see, sir. So you don't see any  
20 conflict between Exhibit 469 and page 823?

21                  A. None whatsoever.

22                  Q. In one case you talk about potential  
23 effects in the absence of provincial guidelines, in the  
24 other statement; that is to say the one at 823, you  
25 seem to acknowledge that there will inevitably be some

1 effects.

2 A. Unquestionably there will be some  
3 effects. I would be the -- I would certainly not  
4 suggest for one moment that there wouldn't be any  
5 effects. And, as I say, I think I was quite explicit  
6 in my evidence in 10 and I will certainly repeat it  
7 again.

8 There will be effects. There may be a  
9 requirement for some members of the tourism industry to  
10 make some accommodations because of the inevitable  
11 changes that occur as a result of increased access and  
12 other timber management activities, including  
13 harvesting and renewal.

14 I think I went on to say, though, that in  
15 most cases those impacts could be minimized through the  
16 careful application of the various guidelines, most  
17 specifically the tourism, the moose and fish  
18 guidelines.

19 Q. Thank you, sir. Sir, could you turn  
20 to page 850, please, of the witness statement.

21 A. I have that.

22 Q. Sir, I am directing your attention to  
23 the paragraph which reads -- commencing with the words:

24 "The influx of new hunters..."

25 Do you have that?

1 A. I have that.

2 Q. "The influx of new hunters may  
3 contribute to increased expenditures in  
4 the local area, for example, local  
5 communities, road accessible lodges,  
6 motels, restaurants, outfitters, et  
7 cetera. This may contribute to  
8 employment and greater cash flow for the  
9 tourism sector locally."

10 Sir, would you agree that it's just as  
11 likely that the net balance, net cashflow for tourism  
12 in an area will be negatively impacted by increased  
13 access notwithstanding what you describe as an influx  
14 of new hunters in the first instance?

15 A. I think, as I pointed out in my  
16 evidence in Panel 10, there can be both positive and  
17 negative impacts, and I spoke to the fact that there  
18 could be a redistribution of benefits.

19 So that with harvest and associated  
20 access and renewal you do get an influx of users and  
21 the mix may change. And I indicated that it is  
22 possible in some instances road accessible,  
23 locally-based tourism establishments might benefit and,  
24 in some instances, remote tourism establishments might  
25 be negatively affected.



1 I wouldn't want to generalize beyond that  
2 simply because I think you have to look at individual  
3 cases very carefully.

4 Q. Sir, that's very -- that is very  
5 consistent with the evidence that you gave in Panel 10.  
6 With respect to the evidence that you have just given,  
7 do you have any further empirical studies other than  
8 anything you referred to in your Panel 10 evidence?

9 A. I'm not trying to be difficult, when  
10 you say empirical studies, empirical studies dealing  
11 with what?

12 Q. With the impact of access on the net  
13 benefit -- net economic benefit of tourism to an area?

14 A. I am not aware of any studies that  
15 exist right now that deal explicitly with the effect of  
16 increased access on remote tourism.

17 I would, however, indicate that the ESSA  
18 study that we completed in preparation for this  
19 evidence did deal with the effect of timber management  
20 activities on remote tourism and is going to be used as  
21 the basis for developing a monitoring program which  
22 will look at the appropriateness of the, or the  
23 effectiveness of the Tourism Guidelines in basically  
24 protecting tourism values.

25 So my answer is simply: I am not aware

1 of any explicit study that deals specifically with that  
2 subject. The ESSA subject dealt with the whole issue  
3 of tourism values and how they would be affected by  
4 timber management and, to some extent, dealt with the  
5 issue of access and, in fact, many of the statements  
6 that I have included in my evidence on that table, in  
7 fact in the tables on tourism in Panels 10 and 11, come  
8 directly from the hypotheses of effect that were  
9 developed in the ESSA document.

10 Q. Sir, does that answer mean that you  
11 have no further studies other than what you have  
12 referred to previously in your evidence?

13 A. That's correct.

14 Q. Thank you. In terms of the level of  
15 expertise which you rely on for making the statement at  
16 page 850 and the evidence you have given today, have  
17 you relied on any other sources beyond the expertise  
18 which you have testified to in Panel 10 and your  
19 previous qualification, I believe it was.

20 A. Well, yes, I have been very explicit  
21 about that. It was my experience, the experience of  
22 other Ministry staff and the studies that were -- and  
23 at least the evidence prepared by other members of the  
24 panel here and members of Panel 10 on the aquatic --  
25 effects of harvest and renewal on the aquatic and

1 terrestrial environment.

2 Q. But nothing further than what you  
3 have previously relied on?

4 A. No.

5 Q. Thank you. Sir, have there been  
6 studies about the percentage or the numbers of lakes in  
7 the area of the undertaking which contain or have  
8 roofed remote tourism facilities?

9 A. Yes, there was a study, and I can't  
10 recall, I think it may have been done by Huff Stansbury  
11 in the 70s that basically provided an overview of the  
12 tourism sector, and that study is thought now to be out  
13 of date.

14 And the Northern Ontario Tourist  
15 Outfitters in cooperation with MNR and the Ministry of  
16 Tourism and Recreation, and I believe Northern  
17 Development and Mines, is currently undertaking another  
18 study that will in effect update that material in terms  
19 of providing basic information on the extent of the  
20 remote tourism industry in terms of roofed  
21 accommodation and also profiling the economic  
22 characteristics of the industry.

23 Q. When might we expect that study, sir?

24 A. I could undertake to find that out  
25 for you. I know that this -- I believe the study has

1       been initiated and I have seen the terms of reference,  
2       but I don't recall when that is supposed to be  
3       completed, but I would be glad to find that out.

4                   MR. EDWARDS: Thank you. I will take  
5       that as an undertaking which I can receive through Mr.  
6       Freidin.

7                   Q. Sir, do you know what percentage of  
8       waterbodies greater than one hectare have restricted  
9       access for purposes of protecting tourism in the area  
10      of the undertaking? Has any study ever been done of  
11      that?

12                  MR. CLARK: A. I don't know whether a  
13      study has been done and I certainly don't know the  
14      answer.

15                  Q. Would anybody know the answer?

16                  A. Could you ask the question once more.  
17      I just want to make sure I understand.

18                  Q. It is sort a double-barreled  
19      question. I would be interested in knowing whether  
20      anybody would know what percentage of lakes or  
21      waterbodies greater than one hectare have restrictions  
22      on public access, and then I would want to also  
23      rephrase it to what percentage of waterbodies greater  
24      than 10 hectares have restrictions on public access for  
25      the purposes of protecting roofed tourism facilities.



1                   And I don't assume you have that with you  
2           here today, sir.    Would you know who would know that  
3           information, if anybody?

4                   A.   I would expect the Ministry of  
5           Tourism and Recreation would probably know that.

6                   Q.   The Ministry of Tourism and  
7           Recreation has a representative of sorts on the timber  
8           management planning team; correct?

9                   A.   That's normally the case.

10                  Q.   This person is referred to as an  
11           advisor?

12                  A.   That's correct.

13                  Q.   If the timber management planning  
14           team is struggling to make a decision, does it  
15           sometimes, when push comes to shove, make its decisions  
16           by vote?

17                  A.   I don't know if I can answer that.  
18           In my experience we didn't do that, no, because as a  
19           manager I didn't think that it was appropriate, given  
20           the nature of the issues that we were dealing with, to  
21           assign one vote per subject area, if you want; so that  
22           the one "tourism representative" would have one vote.

23                  No, I would say that that was probably  
24           not standard practice.

25                  Q.   Well, are you aware whether advisors

1 who are not actually members of the team in the formal  
2 sense would get a vote if it came to that?

3 A. No, I'm not aware of it. I suspect  
4 it is very much an individual style in districts, but I  
5 suspect that the rule would be that voting is not  
6 normal procedure on these committees.

7 I think that consensus building is where  
8 we put our emphasis, bearing in mind that the chairman  
9 of the planning committee and ultimately the district  
10 manager have to make a decision.

11 Q. Why is the tourism representative  
12 merely an advisor and not a full member of the  
13 committee?

14 A. I believe that the reason for that is  
15 simply one of responsibility. The Ministry has  
16 responsibility for approving the plan and, in that  
17 context, the members of the committee are limited to  
18 those people and the company officials.

19 The advisory role of the tourism  
20 representative is simply that, that we felt that given  
21 the number of issues that we had to deal with  
22 concerning tourism that we would benefit significantly  
23 by having good advice on a firsthand basis in a  
24 significant way to the planning team.

25 Q. Is the committee allowed to meet

1 without the tourism representative being present?

2 A. Certainly.

3 MR. EDWARDS: Thank you, sir. Those are  
4 my questions.

5 THE CHAIRMAN: Thank you.

6 Mr. Clark, when these meetings do take  
7 place, is there anything established with regards to a  
8 quorum or do all of the members of the committee have  
9 to be present before you conduct business? How does it  
10 work?

11 MR. CLARK: I should probably tell you  
12 what my experience is, but I would really like to defer  
13 to other panel members because my experience is quite  
14 dated now and certainly in my case the attempt was  
15 always to have the full committee there.

16 There were times when, for practical  
17 reasons, a portion of the committee might meet to deal  
18 with a particular problem, but that would normally be  
19 reviewed with the larger committee. So, in my  
20 experience, it's like a lot of committees, the general  
21 rule was to try and have the whole committee there.

22 Periodically if that wasn't possible and  
23 it was -- there were specific issues that could be  
24 dealt with at that time with those who were available,  
25 they would be dealt with just to deal with the

1 practicalities of scheduling.

2 The one point I would stress is that  
3 minutes were kept of all those meetings detailing the  
4 subjects that were discussed, the issues and the  
5 decisions that were made. So that I believe that there  
6 was -- the actions of the committee were very traceable  
7 or are very traceable.

8 Frank, do you have anything to add to  
9 that or...

10 MR. KENNEDY: I would just add that it is  
11 standard practice that the minutes of those meetings  
12 are included as part of the supplementary documentation  
13 of the timber management plan.

14 THE CHAIRMAN: Thank you.

15 MR. CLARK: One point I would make, Mr.  
16 Edwards, concerning the involvement of the tourism reps  
17 is that those people are limited in number; there are  
18 far less tourism reps than there are plans that are  
19 under development.

20 And it has been my experience that those  
21 individuals have difficulty attending all the meetings  
22 and it was normal practice, when I was a district  
23 manager, to try and identify those issues that were  
24 being dealt with in the plan in advance and notify  
25 those people, so that those meetings that were of



1 direct relevance to them, they would be notified of  
2 them and could attend. And I think this is very, very  
3 important. Quite frankly, those people have lots of  
4 other things to do and it would probably be unnecessary  
5 and somewhat wasteful for them to spend all their time  
6 there.

7 And certainly in my district, for  
8 example, the tourism rep was in Sault Ste. Marie. It  
9 was a two and a half hour drive at the very best of  
10 times to reach Wawa, and so what we would do is  
11 identify issues that were of direct relevance to him  
12 and notify him in advance so that he could attend those  
13 meetings. And I think that is very, very important.  
14 So there was an attempt on our part to accommodate him.

15 And he, I might add, was also advising a  
16 number of other committees as well that were doing  
17 plans in other districts, for example, Hearst, Sault  
18 Ste. Marie, Blind River. And so, as I say, for  
19 practical reasons it wasn't always necessary or  
20 practical for him to be there.

21 MR. EDWARDS: Mr. Chairman, I have a  
22 question arising out of that, if I may.

23 THE CHAIRMAN: Very well.

24 MR. EDWARDS: Q. Sir, with respect to  
25 the Wawa District, do you know Mr. Payne as the

1 designated tourism person there?

2 MR. CLARK: A. Yes, I do, very well.

3 Q. Do you know how many meetings Mr.  
4 Payne has attended with respect to the preparation of  
5 the Magpie Timber Management Plan?

6 A. No, I have no idea. I think you  
7 should ask him.

8 Q. Would it surprise you if the -- well,  
9 the information I have, sir, is that the number is  
10 zero. Do you have any information to the contrary?

11 A. No, and I don't even want to comment  
12 on it. Frankly, I haven't been involved in those plans  
13 at all and there may be very good reasons why he has or  
14 hasn't attended meetings.

15 Q. Would it be possible for somebody to  
16 check? I don't have confirmation of that, sir, I was  
17 just wondering is it possible for somebody to check?

18 THE CHAIRMAN: Well, how can they check  
19 about Mr. Payne's attendance? Wouldn't be it more  
20 direct if you checked with Mr. Payne as to why he did  
21 or did not attend?

22 He may be able to tell you, Mr. Edwards,  
23 he wasn't invited, for instance.

24 MR. EDWARDS: Well, we will speak to Mr.  
25 Payne directly then, Mr. Chairman. Thank you for that

1 suggestion.

2 THE CHAIRMAN: Okay.

3 MR. EDWARDS: Those are my questions.

4 THE CHAIRMAN: Thank you.

5 Ms. Seaborn, are you ready?

6 MS. SEABORN: Yes, Mr. Chairman. Perhaps  
7 gentlemen while I get set up, could I ask for a couple  
8 of changes in your seating. Mr. Hynard, could you  
9 switch places with Mr. Clark.

10 I thought I had lost you completely, Mr.  
11 Hynard.

12 MS. SEABORN: Mr. Chairman, I would like  
13 to begin by filing a bundle of interrogatories that  
14 were posed by the Minister of the Environment with  
15 respect to Panel 11.

16 The numbers that I will be filing are  
17 Question Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10 and 13 through  
18 23.

19 THE CHAIRMAN: Very well, that will be  
20 Exhibit 585.

21 ---EXHIBIT NO. 585: MOE Interrogatory Question Nos.  
22 1-7, 9, 10, 13-23 (Panel No. 11).

23 MS. SEABORN: Mr. Chairman, I would like  
24 to start my cross-examination this morning dealing with  
25 the area of prescribed burns.

1 CROSS-EXAMINATION BY MS. SEABORN:

2 Q. And, Mr. Elliott, could you put on  
3 the overhead a copy of the Battersby Creek burn that  
4 was presented in your evidence-in-chief. I don't think  
5 we need the lights off because this particular overhead  
6 appears in the witness statement as well at page 448 of  
7 Volume I of Panel 11.

8 MR. FREIDIN: Volume II.

9 MS. SEABORN: Sorry, Volume II.

10 Q. I guess we do need the lights off, we  
11 can't see it very well. Sorry.

12 THE CHAIRMAN: It doesn't make any  
13 difference. If you want to leave it on, it's okay.

14 MS. SEABORN: Q. Mr. Elliott, were you  
15 actively involved in the Battersby Creek prescribed  
16 burn?

17 MR. ELLIOTT: A. No, I wasn't.

18 Q. And are you familiar with the burn  
19 and what it entailed?

20 A. I have read the plan and the  
21 post-burn report. That is as much as I know about what  
22 it entails.

23 Q. Okay. And you are familiar with  
24 prescribed burn planning manual which is Exhibit 559?

25 A. Yes, I am.



1 Q. Did you author any parts of that  
2 manual?

3 A. No, I did not.

4 Q. And you are familiar with post-burn  
5 reports?

6 A. Yes, I am.

7 Q. Now, as I understand the evidence,  
8 the prescribed burn for Battersby Creek was proposed in  
9 1987 and took place in 1988?

10 A. That's correct.

11 Q. Now, could you point again -- point  
12 out again for me the areas that you described as high  
13 value areas?

14 A. They are the areas in red in the  
15 written evidence and the areas -- I believe it's more  
16 of a purple colour on the overhead.

17 Q. So those are the areas essentially on  
18 the right-hand side of the overhead and the right-hand  
19 side of the page in the witness statement?

20 A. That's correct.

21 Q. And then there's another area at the  
22 top.

23 A. That's right.

24 Q. Now, there's a dashed red line that  
25 appears in the map of the prescribed burn; correct?

1 A. That's correct.

2 Q. And that is identified as the  
3 allowable burn perimeter?

4 A. That is correct.

5 Q. And as I understand an allowable burn  
6 perimeter, this is an area to which a fire can be  
7 permitted to spread; is that correct?

8 A. It can be permitted to spread in  
9 there, but there would be suppression action taken  
10 normally in the area between the prescribed burn  
11 perimeter and the allowable burn area.

12 Q. And the solid red line in the witness  
13 statement is the prescribed burn perimeter itself?

14 A. That's correct.

15 Q. Now, looking within the solid red  
16 prescribed burn perimeter, there are no areas of  
17 concern identified on the map within that perimeter; is  
18 that correct?

19 A. That's my understanding, yes.

20 Q. Do you know whether there were any  
21 areas of concern identified in the timber management  
22 plan within this area?

23 A. I'm not a area of any areas of  
24 concern that were identified in the timber management  
25 plan for this particular area.

1 Q. Could you check for me and advise me  
2 if you find out otherwise?

3 A. Yes, I can.

4 Q. Now, on the witness statement and on  
5 the figure that is on the overhead there's an area that  
6 is marked in green.

7 A. That's correct.

8 Q. And these are the natural boundaries?

9 A. That is correct.

10 Q. Now, I note that these natural  
11 boundaries are essentially areas that are between the  
12 burn perimeter and between the allowable burn  
13 perimeter.

14 A. That's correct.

15 Q. Now, in this example, if the burn  
16 perimeter did not contain the fire, then there are  
17 watercourses or creeks that exist between the allowable  
18 burn perimeter and the burn perimeter that could  
19 potentially be burnt over; is that correct?

20 A. The fire could jump over those, yes.

21 Q. Would you look at the two lakes in  
22 the middle of the map. Could you just point those out  
23 for me on the overhead.

24 A. (indicating)

25 Q. Yes. I just wanted to make sure we

1 were talking about the same lakes. Those are the two I  
2 am going to refer to. Do you know whether harvest was  
3 allowed up to the edge of those two lakes?

4 A. It's my understanding that there was  
5 some harvesting up to the edge of those two lakes. I  
6 can't tell you whether it was total or not.

7 Q. Could you find that out for me?

8 A. Yes, I could.

9 Q. Now, are you aware if Battersby Creek  
10 itself or any of the lakes within the allowable burn  
11 perimeter have been surveyed to AHIS standards?

12 A. I am not aware of whether any of  
13 those have been surveyed to such standards.

14 Q. Dr. Allin, would you know?

15 DR. ALLIN: A. Yes. I understand that  
16 none of them have been surveyed to AHIS standards.

17 Q. Dr. Allin, do you know if Battersby  
18 Creek contains cold water fish?

19 A. I understand from talking to the  
20 district biologist at Gogama that it is very unlikely  
21 to be a cold water habitat. In all likelihood, if  
22 anything, it is warm water. It is a tributary to the  
23 Spanish River which is a warm water river.

24 Q. And, Dr. Allin, if you look at the  
25 lakes again in the middle of the diagram, which of the



1 two lakes would be the headwater lake?

2 A. Well, my interpretation of the  
3 proposal from the Ministry of Environment as to what  
4 constitutes a headwater lake, would be that neither of  
5 these qualifies as a headwater lake.

6 Q. On what basis?

7 A. On the basis that the outflow from  
8 the upper of the two lakes is intermittent.

9 Q. Dr. Allin, my information according  
10 to a review of the topographical maps is that the  
11 outflow is not intermittent. So I just want to ask you  
12 a couple of questions based on that assumption and  
13 subject to verification.

14 Now, if I am correct and outflow is not  
15 intermittent, then which of the two lakes would be the  
16 headwater lake?

17 A. My understanding is that it would be  
18 the upper one of the two.

19 Q. The northerly lake?

20 A. The northerly one.

21 Q. And if it were a headwater lake, then  
22 pursuant to the Fish Habitat Guidelines it would be  
23 treated as a cold water lake and have a 30 per cent to  
24 90 per cent slope-dependent buffer?

25 A. Yes. 30 to 90 metre, that's right.

1 Q. And the same prescription would apply  
2 to Battersby Creek if it contained cold water species?

3 A. That's correct.

4 Q. Now, if the lake on the northeast  
5 corner of the map, and I'm referring to the lake that  
6 runs from the top of the map underneath the green  
7 natural boundary down the burn perimeter to the red  
8 area that is identified as a high value area?

9 A. Yes. I understand what you mean.

10 Q. Okay. And if that is a warm water  
11 lake that's greater than 10 hectares, then only 50 per  
12 cent of the shoreline could be cut at one time;  
13 correct?

14 A. That's correct.

15 Q. And if it is unknown, then that lake  
16 would have to be protected in any event?

17 A. Yes, it would. In that case there  
18 would be a continuous reserve of 30 to 90 metres or  
19 there might be a limited amount of selection cutting  
20 within that shoreline area.

21 Q. I think we can turn off the machine.  
22 Thank you, Mr. Elliott.

23 Mr. Elliott, could you turn to page 447  
24 of the Panel 11 witness statement, Volume II.

25 A. I have it.

1 Q. Now, if you look at the area within  
2 the burn perimeter, you show the pattern for ignition.

3 A. Yes, that is true.

4 Q. Now, if there were early and late  
5 winter moose habitat corridors left after the harvest  
6 of that area, could they survive the ignition pattern  
7 that is shown on this Figure 3?

8 A. It would depend where they were in  
9 relation to the actual ignition pattern.

10 Q. Okay. And if they were -- would it  
11 be your evidence that if they were closer to the centre  
12 of the ignition pattern, then there would be less of a  
13 chance of survival, or is it the other way around?

14 A. Well, if there were areas like that  
15 in there, the pattern would be adjusted to take those  
16 into account so that the major portion of the hot fire,  
17 the rapidly spreading fire would be kept away from  
18 those areas.

19 Q. So if there were moose corridors  
20 within this ignition pattern that you have on this --  
21 let me start again. If there were moose corridors  
22 within this area, then would the ignition pattern be  
23 laid out something differently than what's depicted on  
24 this figure?

25 A. Most probably.

1 Q. And that is because this ignition  
2 pattern would result in quite a hot fire?

3 A. From the looks of that pattern, if  
4 that is what was actually done on the ground at the  
5 time of ignition, that would result in a fairly clean  
6 burn.

7 Q. Okay. Now, Battersby Creek  
8 prescribed burn was approximately 550 hectares.

9 A. That's correct.

10 Q. Could you have before you, Mr.  
11 Elliott, a copy of the interrogatory package that I  
12 just filed, Exhibit 585.

13 A. Yes.

14 Q. And turn to Question 22.

15 A. I have that.

16 Q. Now, in the question we asked about  
17 the average size of a prescribed burn, and we had given  
18 a figure that was done according to our calculations,  
19 and in the response it was pointed out to us that that  
20 figure was not very meaningful; correct?

21 A. Yes.

22 Q. Now, what I want to look at then is  
23 the last sentence on the answer where you say:

24 "In the rest of the area of the  
25 undertaking, the size of burns range



1                   between 25 hectares and 3,100 hectares,  
2                   most in the range of 100 and 500  
3                   hectares."

4                   A. Yes.

5                   Q. What is the smallest size of a  
6                   prescribed burn which could be considered to be  
7                   economically feasible?

8                   A. Well, that depends on a number of  
9                   factors. The smallest burn that we have done has been  
10                  in the order of about two and a half hectares for  
11                  research purposes.

12                  For site preparation purposes, it depends  
13                  on size and shape of the burn, the objectives that the  
14                  forester wants to accomplish and, in most cases, they  
15                  are in the order of a hundred hectares or above, but  
16                  they can be smaller.

17                  Q. Would you agree with me that there  
18                  are economies of scale associated with larger burns?

19                  A. Yes, there are, on a cost per unit  
20                  area basis.

21                  Q. Now, if we consider for a moment the  
22                  strictest interpretation of the Moose Guidelines which  
23                  suggest clearcuts in the range of 80 to 130 hectares  
24                  for providing good moose habitat, then it appears to me  
25                  then that your prescribed burns would routinely exceed

1 the recommended size of clearcuts.

2 Would you agree with that, looking at the  
3 numbers?

4 A. Looking at the numbers it would be  
5 easy to agree with that, but there are other factors  
6 that one has to look at. It's not easy for a  
7 prescribed burn to exceed the size of the cut-over to  
8 be treated unless it becomes an escape fire.

9 Q. Right. But what I am looking at is  
10 that an area -- you have an area that's harvested,  
11 let's say exceeds 130 hectares, and then you would go  
12 and prescribe burn that whole area; correct?

13 A. Yes, if that's what was required or  
14 called for by the forester in his application for  
15 "approval to go ahead and burn.

16 Q. But if you were consistently  
17 clearcutting within the range of 80 hectares to 130  
18 hectares, then I suggest that looking at the figures  
19 the average size for prescribed burns would not be in  
20 the range of 100 to 500 hectares, it would be something  
21 less than that?

22 A. In that situation, yes.

23 Q. Could you turn to page 495 of your  
24 evidence and I just want to have a look at photo No. 30  
25 for a moment.

1 A. I have that.

2 MR. FREIDIN: What page?

3 MS. SEABORN: Sorry 495, Panel 11 Volume

4 II.

5 Q. Now, am I correct, this is a  
6 photograph that you referred to as showing an area of  
7 concern around Sunshine Lake?

8 MR. ELLIOTT: A. It's a reserve around  
9 Sunshine Lake, yes.

10 Q. Okay. And I believe your evidence  
11 was that this lake was protected due to moisture and  
12 other conditions preventing the natural boundary from  
13 burning?

14 A. In that case the reserve acted as a  
15 natural boundary and the fuel condition inside it was  
16 such that the fire did not spread into the area of  
17 concern down to the shore of the lake.

18 Q. And there was no sprinkler system in  
19 place in this example?

20 A. No, there wasn't.

21 Q. Now, could you just tell me: What  
22 are the natural conditions that would make a reserve  
23 non-susceptible to the spread of a prescribed burn?

24 A. It's basically the fuel moisture, the  
25 moisture of the forest fuel in that reserve and the

1 conditions on the ground primarily of that fuel. And  
2 in cases where the moisture content of fuel is high,  
3 fire won't spread.

4 Q. Any other natural conditions that  
5 would favour that acting as a good boundary?

6 A. The species of the trees, but by  
7 virtue again of their moisture content.

8 Q. Anything else?

9 A. The way the fire is ignited and the  
10 way the fire burns into the natural boundary. In a  
11 case like that it was a fire that was spreading slowly,  
12 I'm sure towards the edge of the burn and it wasn't  
13 going in as a rapid rate of spread, hot fire.

14 Q. Now, the other thing I'm thinking of  
15 in terms of a natural condition would be the climatic  
16 conditions, for example, the humidity on the day of the  
17 burn?

18 A. Yes, as reflected in the moisture  
19 content of the fuel to some extent, but you are right.

20 Q. And the wind direction?

21 A. Yes.

22 Q. And in a situation like that, would  
23 you agree with me that if the natural conditions were  
24 not satisfactory to conduct a prescribed burn that would  
25 protect that natural boundary, then you always have the



1 option on that particular day not to do the burn?

2 A. That's correct.

3 Q. Could you just turn now to page 543  
4 of the Panel 11 witness statement, Volume II.

5 A. I have that.

6 Q. And this is a chart that is included  
7 as part of the prescribed burn post-burn report.

8 A. True.

9 Q. And this is for the Battersby  
10 prescribed burn?

11 A. Yes, it is.

12 Q. Now, I note under Item 16:  
13 Detrimental Effects, that there was nothing listed in  
14 this chart with respect to those red high value areas  
15 that we identified earlier?

16 A. That's correct.

17 Q. Is there a reason for that?

18 A. I guess the reason was that there was  
19 no expectation that there would be any damage or loss  
20 to those values if the burn was conducted properly.

21 Q. And how would someone looking at this  
22 post-burn report and attempting to evaluate it know  
23 that high value areas or areas of concern had been  
24 considered prior to the burn being carried out? Would  
25 they know from reading the report?

1                   A. Yes, they could know from reading the  
2 report and the table at Item 16 on the left-hand column  
3 is anticipated -- it's headed: Anticipated and that is  
4 where there would be some expectation of damage if some  
5 was expected.

6                   Q. Well, what about if there wasn't an  
7 expectation of damage because you were going to set up  
8 the burn in a particular way so that there wasn't going  
9 to be any damage; I mean, presumably that is your goal?

10                  A. That's correct. And in that case, in  
11 that column there would be as was recorded there, none.

12                  Q. So, by looking at this chart I can't  
13 identify that areas of concern or high value areas had  
14 been considered by the planner prior to operating the  
15 burn?

16                  A. For a full view of that you have to  
17 look at the prescribed burn burn plan itself.

18                  Q. Okay. Could you turn to page 502 of  
19 your evidence.

20                  A. I have that.

21                  Q. And this is the prescribed burn  
22 policy?

23                  A. Yes, it is.

24                  Q. One of the considerations listed on  
25 page 502 under Item D is comprehensive consideration of

1 environmental impacts.

2 A. Yes.

3 Q. Now, going back to my question with  
4 respect to the post-burn report, would you agree that  
5 if areas of concern for non-timber values and high  
6 value timber areas were identified in the post-burn  
7 report, then someone tracing the process could see  
8 exactly how these environmental impacts were considered  
9 as stated in the policy?

10 A. Yes, I'd have to agree with you that  
11 that would be the case however, as I say, the full  
12 documentation for prescribed burn includes the plan.  
13 At the moment one would have to look at both documents  
14 to trace the consideration of the high value areas for  
15 whatever purpose.

16 THE CHAIRMAN: Mr. Elliott, is the  
17 purpose of the post-burn report though essentially to  
18 document the results of the burn as opposed to the plan  
19 which documents the considerations taken into account  
20 and the manner in which the burn is going to be carried  
21 out?

22 MR. ELLIOTT: That's correct. The  
23 post-burn report documents is intended to document the  
24 results of the burn.

25 MS. SEABORN: Q. Could you turn, Mr.

1 Elliott, to Question 21 of the Ministry of the  
2 Environment interrogatories, Exhibit 585.

3 MR. ELLIOTT: A. I have that.

4 Q. Now, we had asked whether or not it  
5 was mandatory that the mitigation measures and other  
6 steps taken to protect non-timber values be observed  
7 and respected in the course of the planning and  
8 implementing prescribed burns.

9 And the response was that:

10 "Any prescribed burn has to be planned  
11 within the terms of the approved timber  
12 management plan for the area and in  
13 accordance with the requirement of the  
14 prescribed burn planning manual."

15 Now, can I assume from that answer that  
16 it is mandatory that areas of concern within an area  
17 scheduled for prescribed burn will be protected as long  
18 as those areas of concern have been identified in the  
19 timber management plan?

20 A. Yes, they will be built into the plan  
21 as a value and be protected as such.

22 Q. And then they would be subject to the  
23 same area of concern planning process as set out by the  
24 timber management planning manual and the timber  
25 management planning process?



1 A. Yes.

2 Q. I am speaking of the tables that deal  
3 with the areas?

4 A. Yes.

5 Q. Now, page 544 of of the evidence  
6 going back to the post-burn report, under Item 19,  
7 district manager comments.

8 A. Yes.

9 Q. I was interested in the query at the  
10 bottom of that page where it says:

11 "Is there really a cost savings when the  
12 silvicultural treatment is complete."

13 The reason I was interested in that is  
14 that in reviewing the post-burn report that this  
15 particular burn came in 34 per cent under budget.

16 A. Yes.

17 Q. Do you know what reference was being  
18 made to in Item 19 by the district manager?

19 A. I could only guess, but if you look  
20 at the results of the fuel removal as a result of the  
21 prescribed burn, it was not quite what was expected  
22 when the burn was actually planned and that was because  
23 the burn was conducted at the low end of the  
24 prescription. But I would only be guessing on what the  
25 district manager's question was all about there.

1 Q. And prescribed burn tends to be used  
2 in situations where mechanical site preparation is  
3 inappropriate?

4 A. In some situations, yes.

5 Q. I am wondering if you can do a little  
6 exercise for me then in the form of an undertaking, and  
7 I would like to be able to have a look at a cost  
8 comparison between three items: prescribed burn versus  
9 mechanical site preparation versus a combination of  
10 using prescribed burn plus mechanical site preparation  
11 would you be able to do that for me?

12 MR. FREIDIN: Would that be a difficult  
13 thing to do? Perhaps you could comment on that and  
14 perhaps if it is more complicated, then you can advise.

15 MR. ELLIOTT: I guess there's some things  
16 we would have to know about before we can do much of a  
17 comparison. One would be, of course, what period of  
18 time we're looking at, what sites we're looking at.

19 THE CHAIRMAN: Wouldn't the answer, Mr.  
20 Elliott, really be very site-dependent?

21 MR. ELLIOTT: Yes, it would.

22 THE CHAIRMAN: In other words, if there  
23 were a lot of boulders, but it was still possible to do  
24 some mechanical site preparation, it might be a lot  
25 more expensive than a site where there was fewer

1 boulders and all those kinds of considerations?

2 MR. ELLIOTT: That's right. That's  
3 precisely right.

4 MS. SEABORN: That's actually, Mr.  
5 Chairman, really what I'm looking for is I would like  
6 to have an idea of the cost that if you take one site  
7 and you have to decide: Are you going to prescribe  
8 burn, are you going to site prepare mechanically or get  
9 into a combination of both.

10 And I am not really concerned about what  
11 the site is you choose, and I'm not asking for a range  
12 of sites, just on one site to see the sorts of  
13 considerations that would go in in terms of the  
14 economics.

15 MR. FREIDIN: I think -- I will let Mr.  
16 Elliott comment. We are right back at the same place.  
17 You have asked the same question. He indicated it  
18 would be difficult, it is very site-specific. I don't  
19 think we are any further along.

20 MS. SEABORN: Well, that's why I am  
21 asking for one site, Mr. Freidin, because I appreciate  
22 that it is site-specific.

23 THE CHAIRMAN: All right. Could you, as  
24 an example, Mr. Elliott, take a look at this Battersby  
25 situation and just give an estimate?

1 MS. SEABORN: It is a site where all  
2 three options would be acceptable. The person who is  
3 looking at to make this decision, you can do either  
4 three of those options, and what I want to see is what  
5 would be the next step in terms of the cost comparison.

6 MR. ELLIOTT: Would the Battersby site be  
7 okay as a site to look at?

8 MS. SEABORN: Sure.

9 MR. FREIDIN: Mr. Chairman, I am  
10 wondering -- I mean, maybe it will be an interesting  
11 exercise for some purposes, but I don't understand how  
12 it will be helpful for the Board. It is more work for  
13 a purpose that I fail to see that will be of sufficient  
14 benefit.

15 I don't know why a question like this  
16 wasn't asked for in an interrogatory if the matter was  
17 felt to be important. And if we are going to do a  
18 comparison between prescribed burn and mechanical,  
19 mechanical versus a combination to estimate those  
20 costs, we are getting into an undertaking which I think  
21 is going to be a lot of work for the proponent with  
22 little benefit for the Board.

23 MR. MARTEL: Mr. Elliott, could I ask you  
24 a question while we have this pause?

25 MR. ELLIOTT: Yes, sir.



1                   MR. MARTEL: You said the reason you  
2                   thought -- and I respect that, that you thought that  
3                   the reason for the comments on Item 19 were that maybe  
4                   there wasn't enough of the fuel burnt off.

5                   I look at the fact that it was 34 per  
6                   cent under-budget, Ms. Seaborn said, and is there a  
7                   possibility that in fact someone was being chintzy on  
8                   the preparation of the burn and bringing it under cost  
9                   but in fact not achieving what the goals were? A  
10                  possibility?

11                 MR. ELLIOTT: A very remote possibility.  
12                 I guess my reaction to that would be, as I understand  
13                 from reading the post-burn report, they were running  
14                 out of time in the fire season and that was the reason  
15                 they chose the low end of the prescription to go ahead,  
16                 because it was essentially that or postpone it for a  
17                 year or treat it some other way, and the decision at  
18                 the time was to go ahead and use prescribed fire.

19                 Most cases when burns don't achieve their  
20                 objectives it is because of that reason, they are  
21                 burning at the low end of the prescription, not outside  
22                 the prescription but at the low end. And that decision  
23                 is made by the fire people along with the unit  
24                 forester, so there is a clear understanding of the  
25                 anticipated result if that eventuality comes to be.

1 THE CHAIRMAN: Well, Ms. Seaborn, what  
2 exactly is the utility, in your view, of taking a  
3 specific site and looking at the costs in the three  
4 scenarios?

5 We assume I think that prescribed burning  
6 does cost money for both the use of helicopters, the  
7 fire prevention measures, the planning exercise itself,  
8 et cetera. We also know that mechanical preparation  
9 costs money but it can't be used always in the same  
10 circumstances. And we also know that if you do nothing  
11 the site may naturally regenerate, although it may be a  
12 site that isn't really prone to natural regeneration  
13 except over a very long period of time.

14 What exactly are you going to get out of  
15 the answer that you couldn't get by asking the  
16 question, for instance, is prescribed burning normally  
17 more expensive than mechanically burning -- or than  
18 preparation and (b), if the answer is yes, why do you  
19 ever prescribe burn?

20 MS. SEABORN: Well, I expect the answer,  
21 Mr. Chairman, I would get to that question is that it  
22 depends on the site and site conditions.

23 Now, the reason why I am interested in  
24 this is because we are on a panel that's dealing with  
25 renewal. There has been a lot of discussion about the

1 factors that go into the decision that's made by the  
2 forester when he decides how to site -- how to  
3 undertake site preparation or whether or not to do it  
4 at all.

5 The two choices -- the major choice we  
6 have been focusing on in the evidence-in-chief and the  
7 witness statement are prescribed burn and mechanical  
8 site preparation. We saw a lot of equipment, we have  
9 seen a lot of evidence on that.

10 I just want to know on one site what sort  
11 of -- as a real life example, we've had an awful lot of  
12 information that doesn't pertain to a site-specific  
13 example and you look at the figures and they have a  
14 choice, okay: It may cost more on this site to  
15 prescribe burn, it may cost less to mechanical site  
16 prepare. I want to see what kind of factors go into  
17 deciding that by having a look at the economics of it.

18 I don't think it is a big job. With  
19 respect to Mr. Freidin's comments, I'm not sure why it  
20 would be a significant undertaking to do that.

21 MS. BLASTORAH: Mr. Chairman, I would  
22 just like to make a couple of comments. First of all,  
23 whether or not it is a big job really isn't the issue;  
24 the issue is how helpful is it to the Board.

25 Because even if it is a relatively small

1 job - and that certainly may not be the case - I don't  
2 think asking the Ministry to a lot of small things  
3 which do tend to build up, is one thing, but I don't  
4 think asking us to do things that aren't helpful to the  
5 Board is productive.

6 So whether or not it is a big undertaking  
7 or a large undertaking, I don't think is really  
8 relevant.

9 Secondly, as Ms. Seaborn has indicated,  
10 it is site-specific and, as the Board has pointed out,  
11 it is very site-specific and also the economics of  
12 prescribed burn versus mechanical site preparation are  
13 only -- that's only one of the factors that is outlined  
14 in the evidence.

15 As Ms. Seaborn has indicated, a number of  
16 factors have been outlined that are considered and the  
17 relative weights of those would change from site to  
18 site. Those factors have been set out and detailed in  
19 the evidence, and I think that's what's helpful to the  
20 Board. How those factors are weighed in any given  
21 situation I don't think adds anything to the evidence.

22 THE CHAIRMAN: Well, perhaps we can get  
23 at it to some extent, Mr. Elliott.

24 Can you tell us what weight or what role  
25 the economic considerations of the two methods play in



1 making the decisions, given the fact that there is a  
2 number of other factors that are considered as well?

3 MR. ELLIOTT: It's an important  
4 consideration, as important as just about anything else  
5 in the decision as to whether a burn -- whether to burn  
6 or use another form of mechanical site preparation. It  
7 is hard to say in a relative ranking whether the cost  
8 is number 1 or something else is number 1 in many  
9 cases.

10 In the cases where prescribed burn would  
11 be the only treatment, then the cost is considered all  
12 right and if the cost is too high, then perhaps the  
13 site is left to some other means.

14 If the cost is fair as judged by the unit  
15 forester and is within what he is prepared to spend on  
16 site preparation, then we will go ahead in the case  
17 where prescribed burning is the only -- is the  
18 treatment of choice, the only treatment of choice.

19 In the case where there is a choice  
20 between mechanical and prescribed burning, cost is a  
21 consideration and an important consideration. If  
22 prescribed burning was significantly more expensive  
23 than mechanical, then mechanical would be chosen and  
24 vice versa.

25 THE CHAIRMAN: But have there been cases

1 even going the other way, where one method is more  
2 expensive than another but you chose it anyways because  
3 of the other factors?

4 MR. ELLIOTT: Generally -- yes, that has  
5 happened and I guess it happens in the case where  
6 prescribed burning is the treatment of choice, when  
7 there is a choice, and for whatever reason the burn  
8 can't be accomplished the forester will decide -- may  
9 decide to use an alternative form of site preparation  
10 and go ahead and contract with somebody to do a  
11 mechanical site prep on the area.

12 And in that case, he would be willing to  
13 spend more and do mechanical site prep just to get the  
14 area treated rather than holding it over until the  
15 following year.

16 ---Discussion off the record

17 THE CHAIRMAN: Ms. Seaborn, the Board  
18 spent a little bit of time just discussing what we  
19 consider to be the utility of this line of questioning  
20 and whether or not the Board should order the Ministry  
21 to come up with a cost estimate as you have requested  
22 and, frankly, we don't find that it is going to be that  
23 helpful to the Board in that kind of comparison,  
24 essentially due to the fact that the decision is really  
25 very site-specific.

1                   What we would not mind having, though, in  
2                   terms of a global figure, if that's possible, is the  
3                   amount of money per year in recent years that the  
4                   Ministry budgets for prescribed burning or has budgeted  
5                   for versus mechanical site preparation.

6                   MS. SEABORN: Thank you, Mr. Chairman.

7                   MS. BLASTORAH: Maybe we should just  
8                   check with Mr. Elliott and make sure that's something  
9                   he could do. Is that something you could provide for  
10                  the Board?

11                  MR. ELLIOTT: I think it can be done  
12                  fairly easily. I will undertake to give it a good try  
13                  and if there is a real big problem with it, I will let  
14                  you know.

15                  THE CHAIRMAN: Fair enough.

16                  MR. GREENWOOD: Ms. Seaborn, as a field  
17                  forester who used prescribed burn extensively, there is  
18                  also something in relation to this district manager's  
19                  comment and in relation to the objectives of the burn  
20                  that maybe is worthwhile pointing out.

21                  MS. SEABORN: Q. Sure.

22                  MR. GREENWOOD: A. On page 536, where  
23                  desired results are listed, priority No. 1 of this burn  
24                  was to facilitate light site preparation. So it was  
25                  envisaged that light site preparation was going to be

1 required at the end of this burn.

2 As a field forester, I used this  
3 technique quite commonly where the burn was used to  
4 reduce the amount of slash on the site so that I could  
5 follow up with light site preparation which was in fact  
6 a cheaper form of site preparation than heavy site  
7 preparation which was described by Mr. Kennedy.

8 If we now turn to page 545, we see under  
9 21 a prescription:

10 "Light site preparation is scheduled for  
11 this fall."

12 Meaning that in terms of their priority  
13 No. 1 they met their priority. In terms of the  
14 district manager's comments:

15 "Is there really a cost savings when the  
16 silvicultural treatment is complete."

17 I think he is possibly referring to the  
18 degree of success which is No. 9 on 538. At the bottom  
19 part of that description they suggest that:

20 "Due to the window being narrowed..."

21 The time of year:

22 "...we agreed with forest management..."

23 So the forester was involved in this decision:

24 "...to lower the prescription, therefore  
25 we did not consume one hundred per cent



1 of the fine fuels."

2 What they did consume though was 81.7 per  
3 cent of the fine fuels which is on page 537.

4 As a forester, if I consumed that much of  
5 my fine fuel, if I had only had 18 per cent left and  
6 the larger fuels had been dropped to the ground, which  
7 is suggested by the fact that 30 per cent of the larger  
8 fuels had been consumed, that would have no effect on  
9 my ability to carry out light site preparation.

10 And, therefore, in terms of just  
11 surmising what these comments mean, as a forester I  
12 would answer that district manager that if I did not  
13 have to go to heavy site preparation to deal with the  
14 slash, then I have met my objective of a silvicultural  
15 savings.

16 Q. Thank you.

17 MS. SEABORN: Mr. Chairman, I just have a  
18 couple more questions on this area and then perhaps it  
19 would be an appropriate time to take the morning break.

20 THE CHAIRMAN: Very well.

21 MS. SEABORN: Q. Now, Mr. Elliott, just  
22 dealing again for the moment with the issue of  
23 mechanical site preparation, could you turn to page 552  
24 of your witness statement?

25 MR. ELLIOTT: A. I have that.

1 Q. Now, under the paragraph entitled:  
2 Background, the second last sentence states that:

3 "Due to topography and shallow soil on  
4 the site, mechanical site preparation was  
5 not a consideration."

6 Do you see that?

7 MR. ELLIOTT: A. Yes, I see that.

8 Q. Now, with respect to prescribed  
9 burns, what site descriptions would lead you not to  
10 recommend a prescribed burn be used?

11 A. In some cases a shallow organic soil  
12 that may be over bedrock or something like that, would  
13 be a case where that kind of a site description will  
14 raise some flags in the mind of the forest fire  
15 management personnel.

16 Q. Anything else?

17 A. I think that would be the main one.  
18 Yes, that would be the main one.

19 Q. And that would apply, for example, in  
20 the case of black spruce? I noted in the black spruce  
21 silvicultural guides that it recommends that prescribed  
22 burn not be used on very shallow soils where  
23 conservation of organic matter is important?

24 A. That's correct.

25 Q. And so essentially shallow soil over

1 bedrock is an area where you would not want to  
2 prescribe burn as your preferred option?

3 A. It would depend. I guess, first of  
4 all, shallow organic soil would be the criteria and I  
5 guess we would have to be careful of -- if that was the  
6 whole site, that would -- as I say, that would  
7 certainly be seriously considered before burning was  
8 chosen.

9 Q. Okay.

10 MS. SEABORN: I think this would be an  
11 appropriate time to break, Mr. Chairman.

12 THE CHAIRMAN: Okay. We will break for  
13 20 minutes. Thank you.

14 ---Recess taken at 11:30 a.m.

15 ---On resuming at 12:00 p.m.

16 THE CHAIRMAN: Thank you. Be seated.

17 MS. SEABORN: Q. Mr. Greenwood, in Panel  
18 10 you spoke about the potential environmental effects  
19 of reduced soil fertility through biomass removal or  
20 redistribution?

21 MR. GREENWOOD: A. That's correct.

22 Q. And in your evidence you indicated  
23 that whole tree harvest warrants careful consideration  
24 and probably site amelioration if applied on a large  
25 scale or if stands are managed on a short rotation

1 basis?

2 A. That's correct.

3 Q. Now, with respect to the potential  
4 effects of site preparation, could you turn to page 613  
5 of the Panel 11 witness statement.

6 A. I have it.

7 Q. Now, at the top of the page you are  
8 summarizing with respect to some of the factors you  
9 looked at for site preparation, and you said that  
10 nutrient impoverishment has its greatest potential for  
11 occurrence on sites potentially or already low in  
12 fertility; and, secondly, that the potential for  
13 long-term negative impact increases with the intensity  
14 and degree of forest floor disturbance?

15 A. That's correct.

16 Q. Now, would you agree with me that  
17 some experts have taken the position that  
18 post-harvesting treatments to encourage regeneration  
19 that result in removal of the nutrient capital of humus  
20 should be avoided on shallow till soils?

21 A. Yes, some authors have taken that  
22 point of view.

23 Q. And that was a reference that in fact  
24 is found in one of the papers filed in Panel 9?

25 A. I just don't remember the paper. Do



1       you have a reference?

2                   Q.   Sure.  If you look at your Panel 9  
3       witness statement, page 79, and I'm referring to the  
4       Foster and Morrison study, and at page 79, the last  
5       full paragraph about partway down...

6                   A.   And this is on the right column?

7                   Q.   Yes, on the right-hand side.  They  
8       state:

9                   "Post-harvesting treatments to encourage  
10       regeneration that result in removal of  
11       the nutrient capital of the humus should  
12       be avoided on shallow till soils."

13                  A.   Yes, I see that.

14                  Q.   Okay.  Now, the reason why I was  
15       interested in this in particular, Mr. Greenwood, was  
16       that if you look at the Tyrannite Provincial Review,  
17       which is contained in the Panel 11 witness statement --

18                  A.   Do you have a page number?

19                  Q.   I hope so.  It is 552.  I noted that  
20       under background it indicates that the site had been  
21       whole tree logged, and that's the fifth line down under  
22       background.

23                  A.   Yes, I see that.

24                  Q.   And then the area had been prescribe  
25       burned despite the shallow soil on the site; correct?

1 A. I'm sorry, I haven't read this  
2 document.

3 Q. Okay. Go ahead.

4 A. Yes, I see that.

5 Q. Now, based on your expertise, would  
6 you agree that prescribed burn has the greatest  
7 potential to cause environmental damage on nutrient  
8 poor site and sites of low fertility?

9 A. No, I would not.

10 Q. Why is that?

11 A. On sites of low fertility, usually  
12 the important pool for the mineral which is in shorter  
13 supply, which is usually nitrogen, is contained -- the  
14 pool that is most important is the forest floor.

15 Prescribed burning rarely at the indices  
16 that we burn at removes a significant portion of that  
17 forest floor and, therefore, I would suggest that it  
18 is -- it could be an appropriate tool in that  
19 situation.

20 Q. But it is something you have to take  
21 into account; is it not, when you are evaluating  
22 whether or not to do a prescribed burn on these sorts  
23 of sites?

24 A. In a general way. I don't know that  
25 it is something that would always consciously be taken

1 into account because it is the general practice that  
2 prescribed burning does not eliminate this layer.

3 Q. If you turn to the prescribed burn  
4 planning manual, which is Exhibit 559, under Chapter 3,  
5 Prescribed Burn Application.

6 A. I have it.

7 MS. SEABORN: I am not sure if the Board  
8 has a copy of this manual.

9 THE CHAIRMAN: We have one copy, but I am  
10 not sure that we have it here.

11 MS. SEABORN: I think I am just going to  
12 be referring to a couple of items, Mr. Chairman. I  
13 think I can read them into the record.

14 THE CHAIRMAN: Very well.

15 MS. SEABORN: Ms. Cronk has kindly lent  
16 me her copy. (handed)

17 THE CHAIRMAN: Thank you. What page is  
18 that in here?

19 MS. SEABORN: Q. If you look under Tab  
20 3 -- it is called Chapter 3 actually, Prescribed Burn  
21 Application and the numbers -- the pages aren't  
22 numbered. If you go to the eighth page and the section  
23 referred to is Potential Detrimental Effects...

24 MR. GREENWOOD: A. Yes, I have it.

25 Q. And it talks about:

1 "Prescribed burning is only one technique  
2 that may be used in the rehabilitation or  
3 modification of a site. The probability  
4 of conditions which, if they occur, could  
5 be detrimental to the site's surrounding  
6 area value should be estimated. Some  
7 of these conditions are..."

8 And then under environmental there are a  
9 number of conditions, one of which is exposure of  
10 bedrock, another one is loss of soil nutrients and  
11 organic content, erosion of the topsoil, silting of  
12 lakes or streams.

13 Now, wouldn't you agree with me that  
14 those site conditions are environmental considerations  
15 that need to be taken into account before a prescribed  
16 burn is undertaken?

17 A. Which site conditions?

18 Q. The site conditions that I referred  
19 to.

20 A. I think under the title Environmental  
21 those are potential effects as opposed to site  
22 conditions.

23 Q. Okay. Well, they are potential  
24 environmental effects, but you are looking -- we are  
25 talking about looking at a site where there is a



1 potential for erosion of the topsoil, where there is a  
2 potential for loss of soil nutrients.

3 A. One would have to look at -- yes, if  
4 one was concerned about these environmental effects,  
5 you would have to weigh that effect in light of the  
6 specific site you were considering a burn on.

7 Q. Right. Now, could you turn to  
8 Exhibit 585, which are the Ministry of the Environment  
9 interrogatories and question - excuse me for a moment,  
10 Mr. Chairman - Question 6.

11 Now, we asked about whether or not there  
12 had been any analysis of prescribed burn post-burn  
13 reports in terms of looking at erosion, and the  
14 response was that:

15 "We have been advised by researchers at  
16 both the federal and provincial  
17 government levels that their experience  
18 does not indicate a problem."

19 And I just want to ask you a question of  
20 clarification on that response. Can I take it then  
21 that because there is no systematic analysis of the  
22 prescribed burn post-burn reports, then your  
23 information is based on observations in the field by  
24 MNR foresters?

25 A. I did not author this response, but

1       that's my understanding of the response, yes.

2                       Q.   Can anyone else assist in that  
3       regard?

4                       MR. ELLIOTT:   A.   I may be able to shed a  
5       little light on this.

6                       Q.   Go ahead, Mr. Elliott.

7                       A.   Each post-burn report has a --  
8       documents any actual erosion or anything else in terms  
9       of site damage that's observed on the burn after the  
10      burn has been completed.  There has been no analysis of  
11      those post-burn reports to determine whether or not  
12      there is any trend.

13                      The second part of that response  
14      indicates that people, by virtue of the fact that they  
15      are on those kinds of sites and have observed pre-fire  
16      and post-fire conditions, would indicate that there is  
17      not a major problem.

18                      Q.   Mr. Waito, could you turn please to  
19      MOE Interrogatory Question No. 7 which is Exhibit 585.

20                      MR. WAITO:   A.   I have that.

21                      Q.   And I believe in this answer, and  
22      also in direct evidence that was given, it was your  
23      testimony that MNR does not restrict harvest to  
24      coincide with the seed crop; is that correct?

25                      A.   That's correct.

1                   Q. What happens in a situation where you  
2 harvest and then you conduct site preparation the  
3 following year but you don't have a seed crop, let's  
4 say, for three or four years. Do you lose the value of  
5 that site preparation?

6                   A. I think what -- if I understand what  
7 you are asking, the harvest and site preparation  
8 package would be for natural regeneration in that case.

9                   Q. Yes.

10                  A. Where that does occur, or where that  
11 could occur you could very well lose the value of the  
12 site preparation over that period of time.

13                  Again, that particular renewal package of  
14 modifying the harvest and doing a suitable form of site  
15 preparation to prepare a seedbed is very site-specific  
16 and in fact is one of the -- the fact that you can lose  
17 the effect of your site preparation over a period of  
18 time is one of the drawbacks to utilizing natural  
19 regeneration techniques.

20                  Q. Is it feasible to attempt to  
21 coordinate your site preparation with the seed crop so  
22 that you don't lose the value of that site preparation?

23                  A. I think the response indicated it  
24 wasn't that feasible. The response here wasn't  
25 prepared by myself but I can speak to it in a general

1 way.

2 As the response indicates, it's usually  
3 not possible to predict what the seed crop will be that  
4 early in advance of the harvest and certainly of the  
5 site preparation. So it's not, in most cases, feasible  
6 to try and coincide the harvest and subsequently a site  
7 preparation with the occurrence of a possible cone crop  
8 that particular year.

9 Q. So it wouldn't be feasible to  
10 coordinate the site preparation with the seed crop?

11 A. That's correct.

12 Q. Assuming you delayed the site  
13 preparation for a couple of years, for example. Is  
14 that feasible?

15 A. I think -- I'm thinking of a  
16 situation where we are attempting to regenerate black  
17 spruce through modified harvest cutting and, in that  
18 situation, it might -- it would be feasible to delay  
19 site preparation until you possibly had a good seed  
20 crop.

21 Normally with black spruce, however,  
22 although the cropping is periodic because the cones are  
23 semi-serotinous and there is usually a certain amount  
24 of seed contained in the trees on an annual basis, site  
25 preparation usually takes place immediately after the



1 harvest to take advantage of whatever seed is available  
2 and on those kinds of site conditions, a suitable  
3 seedbed can remain in place for a number of years.

4 The other situation where you might use  
5 site preparation in conjunction with another renewal  
6 technique would be where you would be trying to renew  
7 jack pine on mineral soil sites, or you would coincide  
8 your site preparation or, in effect, your scarification  
9 to do cone scattering.

10 In that case with jack pine, the cones of  
11 jack pine are fairly persistent and there are usually a  
12 large number of them on most jack pine tops. So in  
13 that situation, you could -- you possibly could delay  
14 your site preparation.

15 Q. Thank you. With respect to the  
16 natural regeneration of jack pine, do you know what the  
17 seed dispersal distance is?

18 A. When we regenerate jack pine  
19 naturally we're primarily -- well, almost exclusively  
20 doing it through cones that are present in the slash  
21 and on the ground. It is not -- a natural regeneration  
22 jack pine is not done, normally done through standing  
23 trees as we do with black spruce. So it's not normal  
24 to do modified harvest cutting, for example, for jack  
25 pine.

1 Q. And with respect to black spruce,  
2 what would be the seed dispersal then, distance?

3 A. I think the seed can disperse a  
4 fairly wide distance. Practically speaking and  
5 operationally peaking the width of strips can vary I  
6 think from 20 to 40 metres. I would have to check the  
7 silvicultural guide just to see, but I think 40 metres  
8 is a recommended strip width to get good even seed  
9 dispersal within that area.

10 Q. And does balsam fir have a seed  
11 dispersal for natural regen?

12 A. Balsam fir seed probably does  
13 disperse but normally balsam fir is not renewed through  
14 modified harvest cut where we would rely on seed  
15 dispersal for that purpose.

16 Q. Right. Mr. Hynard, I would like to  
17 ask you a few questions about Exhibit 534A which was  
18 your Regeneration of Harvest Levels Chart.

19 MR. HYNARD: A. Would you like me to put  
20 that chart on the overhead, or would you like me to  
21 just speak to it.

22 Q. Why don't you put it on.

23 Now, Mr. Hynard you have referred to the  
24 white area on this chart as the cut and walk away area  
25 in your evidence-in-chief.

1                   A. Yes. And I said that that was an  
2 area in which harvest occurred but no follow up  
3 silvicultural treatment.

4                   Q. Right. And so it's left for natural  
5 regeneration to a non-commercial species?

6                   A. No, to a non-preferred species.

7                   Q. Okay, non-preferred species. The  
8 major use of the timber that will naturally regenerate  
9 in this white area will be dependent on future markets  
10 for that a timber; will it not?

11                  A. Well, yes, certainly that is one of  
12 the factors. I mentioned also with regard to that  
13 white area that some regeneration of commercially  
14 preferred species would occur within it unassisted by  
15 man and I couldn't tell you to what degree that  
16 occurred.

17                  My impression is that that area, that  
18 area that is harvested without treatment regenerates  
19 primarily to commercially non-preferred species and  
20 their use would, to some degree, be affected by future  
21 markets, yes.

22                  Q. And there will be a cost to industry  
23 associated with adjusting to those new markets. Would  
24 you agree with that?

25                  A. I don't know if cost is the right

1 term. I think you would have to look at them as  
2 opportunities or potential opportunities in the future.

3 Q. Well, in order to use the timber that  
4 comes back in that non-preferred white area, they may  
5 have to develop new processes, for example?

6 A. Yes, that's possible. And I referred  
7 to the growth in the consumption of poplar which has  
8 occurred in the recent past as an example of that kind  
9 of trend.

10 Q. And by leaving species to come back  
11 within this white area, the cost is probably a  
12 long-term economic cost. We're looking over a number  
13 of years into the future.

14 A. Which cost is that?

15 Q. Well, the cost that the industry has  
16 to start now to try to change their mills, for example,  
17 to use a particular species that came back within that  
18 white area, that is going to be a cost that we are  
19 going to have to bear over a number of years probably  
20 to make it economical?

21 A. Well, no. I said I don't think cost  
22 is the right way to look at that. If that timber is  
23 not presently marketed or marketable and there is no  
24 economic opportunity -- if, in a hypothetical, there's  
25 no opportunity to use it today, if conditions were to



1 change in the future that prices were to rise for that  
2 particular kind of product or new markets develop for  
3 it or, as you mentioned, new technologies to process  
4 it, those would be the factors to look at.

5 It's not necessarily a question of  
6 spending cost -- spending dollars today to prepare  
7 ourselves for using a product which is only potentially  
8 marketable in the future.

9 Q. Okay. Mr. Waito, I want to pick up  
10 for a moment on an area that you were discussing with  
11 Ms. Cronk yesterday and I want to talk a little bit  
12 about silvicultural packages and how they are put  
13 together.

14 Now, harvest and renewal are clearly  
15 related in the sense that the choice of harvest method  
16 can often dictate the form of renewal. Would you agree  
17 with that?

18 MR. WAITO: A. That's correct.

19 Q. And Ms. Cronk put the proposition to  
20 you yesterday that one can view sites on a continuum  
21 and some sites will command natural regeneration,  
22 whereas other sites will command artificial  
23 regeneration.

24 A. Yes, I recall that.

25 Q. And I think you discussed with her

1       that the majority of sites fall within the middle area  
2       wherein there is going to be some discretion of either  
3       the MNR forester, the company forester as to how to put  
4       together an appropriate silvicultural package?

5                   A. Well, if that is the impression I  
6       gave, it's an incorrect impression. I think no matter  
7       what site you are dealing with, when it comes to  
8       harvest and renewal, the professional experience of the  
9       unit forester has to come to bear in terms of how you  
10      are going to go about doing your business.

11                   What I was referring to was a particular  
12      range of sites where, because of the site conditions,  
13      the soil/moisture relationships a wide variety of  
14      species can be commercially grown and produced on those  
15      sites, and I think I referred to them collectively as  
16      the boreal mixed wood area, and that this particular  
17      area or range of sites, because of the complexity of  
18      them, offers a significant challenge to managing them  
19      in the most appropriate way.

20                   Q. Okay. Well, that is fair. But with  
21      respect to the sites at either end of the continuum, I  
22      want to get a sense of what these extreme cases are or  
23      let's look at the first one. We have got sites that  
24      will necessarily command natural regeneration. Can you  
25      give me an idea of what sorts of sites those would be.

1                   A. The sites that I had in mind when we  
2 were having that discussion, for instance, were the one  
3 extreme - and I'm thinking of soil/moisture here -  
4 would be the lowland black spruce situation where  
5 because of the site limitations of moisture and soils  
6 type if I can characterize peaty soils as soils type,  
7 black spruce, there is a relatively small range, a  
8 variety of species that will grow on that particular  
9 site type and black spruce is the predominant one.

10                   So in that situation the regeneration of  
11 a commercial tree species is fairly limited; you are  
12 only looking at black spruce, you are not trying to  
13 grow poplar or jack pine or some other species. So in  
14 terms of fitting in the continuum, that is one extreme  
15 range -- extreme of the range.

16                   At the other end I had in mind a very --  
17 a fairly dry site - and again I'm focussing on  
18 soil/moisture - where because of site limitations there  
19 you may have a greater variety of species that might  
20 perform on a particular site or site type than on a  
21 wetter site, however, jack pine generally is a species  
22 that performs the best.

23                   Those kinds of sites generally are Site  
24 Class 3 or lower for poplar and so aspen wouldn't be a  
25 preferred species; a preferred species would be jack

1 pine, I would suggest. And on those sites, jack pine  
2 usually was the species that was growing there in the  
3 first place, it's usually the species that the forester  
4 will try to regenerate. And so those are the two  
5 extremes that I had in mind when we were having that  
6 discussion yesterday.

7 Q. Okay. And would you have a  
8 particular site type in mind where you would know, as a  
9 result of the logging method chosen, that you wouldn't  
10 be able to prescribe burn?

11 A. Could you repeat the question, just  
12 so I understand it.

13 Q. Well, are there certain -- when we  
14 look at the -- when I am looking at the extreme on  
15 either end, are there some sites that would fall within  
16 either one of these extremes where you would not  
17 prescribe burn?

18 A. Probably the kind of site that Mr.  
19 Elliott described where you had a shallow soil. In  
20 that case the soil was a shallow organic soil over  
21 bedrock would be the kind of site that I would, if I  
22 were involved in making a decision or recommendation to  
23 prescribe burn, would have some second thoughts about  
24 what I'd have to take into consideration and that would  
25 most likely fall in the dry end of the spectrum.



1 Q. Mr. Kennedy, would light mechanical  
2 site preparation be an option in that case, if you  
3 weren't going to prescribe burn?

4 MR. KENNEDY: A. Yes, it would be.

5 Q. Mr. Waito, one of the topics that was  
6 discussed in Panel 4 was clearcutting as a method of  
7 natural regeneration, and I just want to ask you a  
8 couple of questions on this topic. Could you have in  
9 front of you Exhibit 29, please.

10 MS. SEABORN: Mr. Chairman, these are the  
11 MNR Statistics 1987.

12 MR. MARTEL: What exhibit number?

13 MS. SEABORN: Sorry Mr. Martel, it's  
14 Exhibit 29, the Statistics 1987.

15 Q. If you could turn to page 17, please.

16 MR. WAITO: A. I have that.

17 Q. Now, the last regeneration method  
18 that is listed under the chart on page 17 is  
19 clearcutting. What is the site description that would  
20 allow or would result in clearcutting as a regeneration  
21 method falling within these statistics?

22 A. Well, I think I can give you a couple  
23 of examples of the kind of sites that would result in  
24 regeneration from clearcutting that would have  
25 contributed to these figures without getting into too

1 much detail.

2 I think in this case the regeneration of  
3 aspen through clearcutting would have contributed to  
4 those figures or poplar, and poplar or aspen can grow  
5 on quite a variety or quite a range of different site  
6 conditions. So I think it would be fairly difficult  
7 just to generalize and say they are a particular type  
8 of soil or a particular moisture regime.

9 Hard maple would be another one I think  
10 that would have contributed to these statistics and I  
11 have no experience in working with hard maple. Mr.  
12 Hynard may be able to describe the kinds of sites  
13 there.

14 I think generally for aspen though we  
15 would be looking at an upland well-drained soils type  
16 and there could be a variety of different soils that  
17 could contribute to that soils type.

18 Q. The figure for 1987 in terms of area  
19 in hectares is 15,351. If you turn to Exhibit 394,  
20 which are the 1988 statistics and at page 13 there's a  
21 similar chart and again we have clearcutting at the  
22 bottom, 19,618 hectares.

23 A. Yes, I see that.

24 Q. Do you have any idea what accounts for the  
25 increase in the use of clearcutting as a regeneration

1 treatment between the two fiscal years?

2 A. No, I don't.

3 Q. Does anyone else know on the panel?

4 MR. KENNEDY: A. Though I don't know  
5 specifically, I believe it would be a reflection of the  
6 areas that were harvested during that particular year.  
7 So that if, for instance, more aspen stands had been  
8 harvested in that year, there would be greater  
9 potential for having clearcutting as an acceptable  
10 method of receiving regeneration.

11 Q. Looking -- maybe you can answer this,  
12 Mr. Kennedy. Looking at Exhibit 534A, the different  
13 areas, where would the clearcutting as a regen  
14 treatment fall within the three areas?

15 Would it be in the bottom area, natural  
16 regen to commercially preferred species, or to the  
17 white area?

18 MR. HYNARD: A. Well, Ms. Seaborn, that  
19 was evidence that I presented and I defined that for  
20 you during my direct evidence and that would appear  
21 within the green area, clearcutting for commercially  
22 preferred species by natural regeneration.

23 So those figures 19,618 hectares in 87-88  
24 would appear in the green zone.

25 Q. Okay. And so that would account

1 then, Mr. Hynard, for about half of the green zone  
2 then?

3 A. Well, it would account for that  
4 percentage that shows on the pie diagram that I  
5 provided you in a subsequent exhibit and I mentioned  
6 that poplar is a commercially preferred species in some  
7 locales on some sites.

8 Q. Right. Mr. Hynard, can we look at  
9 534B for a moment.

10 A. Would you like that on the overhead  
11 also?

12 Q. Sure. Mr. Hynard, the brown area is  
13 the non-treatable due to residuals?

14 A. That's right.

15 Q. And birch and poplar would be an  
16 example of species that would fall within those  
17 residuals?

18 A. Yes, they would.

19 Q. What percentage of crown closure is  
20 required to classify an area as non-treatable based on  
21 residuals?

22 A. There were no percentages given to  
23 the unit foresters in their estimation of the amount of  
24 land that was so classed. It was in their judgment on  
25 the degree of residuals that would render the area



1 non-treatable. So I can't give you a definite number.

2 Q. How do you distinguish then between  
3 an area that becomes non-treatable for other reasons as  
4 opposed to an area that becomes non-treatable for  
5 residuals?

6 A. Oh, that's easy. A forester would  
7 look at the degree of residual timber left standing  
8 there, he would look at the site, what he was trying to  
9 grow or would desire to grow there, his silvicultural  
10 options and the degree to which that residual timber  
11 would impinge upon his ability to effect the treatment  
12 given those options and he would use his judgment.

13 With regard to the other factors  
14 affecting treatability, I mean they are totally  
15 different. Stoniness, topography, those factors are  
16 entirely different.

17 Q. Now, the area above the brown in  
18 yellow, that was the non-treatable area for other  
19 reasons other than the residuals?

20 A. No, above the brown and yellow?

21 Q. No, the yellow area. Above the  
22 brown, the yellow area.

23 A. Yes, yes. The yellow area is  
24 non-treatable for other reasons and I gave a list of  
25 what those other reasons might be.

1 Q. What would generally be the stand  
2 conditions in the yellow area prior to the cut?

3 A. Well, they would vary. The factors  
4 that render that site non-treatable, things like  
5 stoniness, amount of rock in the site - it would be the  
6 same before the cut as after the cut - a high water  
7 table, extremes in topography. Those factors would be  
8 identical before the cut as after.

9 Q. Now, looking at the brown and yellow  
10 areas together in terms of the predominant species that  
11 would come back, it would be balsam fir; wouldn't it,  
12 in the boreal?

13 A. Well, I think the evidence says<sup>e</sup> that  
14 the predominant species which regenerate on  
15 non-treatable areas in the boreal forest are poplar and  
16 balsam fir.

17 Q. But balsam fir would be the  
18 predominant one because you talked about how poplar  
19 is -- more poplar is moving into the bottom area, I  
20 guess.

21 A. You were referring to the brown area  
22 then; were you, Ms. Seaborn?

23 Q. I was referring to the brown and the  
24 yellow area.

25 A. With regard to the brown area, I

1 would expect more balsam than poplar for the simple  
2 reason that there's residual timber that is shading the  
3 site tending to favour balsam.

4 With respect to the yellow area, I'm not  
5 sure - and these are generalizations of course - I  
6 couldn't tell you for sure which it would be. If the  
7 area had been clearcut and it had been a mixed wood  
8 stand, then poplar would be given a competitive edge  
9 over balsam fir.

10 Q. Now, looking at the area that's left  
11 between the yellow and the harvest line --

12 A. I should point out that with regard  
13 to that graph it's not a graph of any one particular  
14 hectare somewhere in Ontario.

15 Q. No, I understand that.

16 A. It was an answer to Ms. Swenarchuk's  
17 question on how much of these various activities occur  
18 across the area of the undertaking. So we must be  
19 cautious in attributing particular characteristics to  
20 any one hectare that's on this graph.

21 Q. Sure. I am just trying to  
22 understand. We have talked about residuals in the  
23 brown area, we have talked about the other reasons that  
24 you listed, and I am wondering what accounts for then  
25 the rest of the white area?

1                   A. The rest of the white. Those were  
2 areas which I described in direct evidence as requiring  
3 treatment in order to grow commercially preferred  
4 species in a treatable condition but, nonetheless, left  
5 untreated.

6                   Q. Okay.

7                   A. And I described the reason for that  
8 as being physical limitations.

9                   Q. Right. Now, the spruce budworm tends  
10 to favour balsam fir rather than spruce; correct?

11                  A. Yes.

12                  Q. It's misnamed in that sense?

13                  A. In that sense.

14                  Q. Okay. And the extent to which we  
15 have regeneration to balsam fir within the white area,  
16 there is a potential; isn't there, for an increase in  
17 infestation of spruce budworm?

18                  A. Well, again, I couldn't answer that  
19 directly because I would really have to know, in order  
20 to answer that question, to what degree balsam fir as a  
21 component in the boreal forest was changing, if at all.  
22 So I'm afraid I'm not in a position to answer that  
23 question.

24                  Q. Well, if we assume for the moment  
25 that balsam fir is probably in the boreal the



1 predominant species that tends to come back within,  
2 you've said at least the brown area, the yellow area  
3 you are not sure about.

4 A. Yes. But the counterbalancing -- the  
5 reason that I can't answer that question is there are  
6 all sorts of counterbalancing factors. For example,  
7 you are aware that balsam fir -- the balsam fir working  
8 group is commonly prescribed for conversion to a spruce  
9 working group.

10 Q. Right.

11 A. And that would, I infer, be a  
12 reduction in balsam fir content in that kind of stand.  
13 So that within your green area -- I'm sorry, within  
14 your orange area some of that would be occurring.

15 Now, the degree to which the reduction in  
16 balsam in that area and increase in balsam in another  
17 area, it would be speculation. I'm not able to answer  
18 your question.

19 Q. Okay, that's fine. Well, I think we  
20 will probably come back to it in later panels on this  
21 topic.

22 Mr. Hynard, in your evidence you talked  
23 about the fact that the area classified as untreatable  
24 for other reasons will probably decrease as new site  
25 preparation techniques are developed.

1                   A. Yes, and as new markets develop for  
2 those non-preferred species.

3                   Q. And you also talked about the fact  
4 that you were working within a limited budget?

5                   A. That's correct.

6                   Q. And presumably at the moment your  
7 renewal budget is directed towards the green and the  
8 orange areas?

9                   A. That's right.

10                  Q. And if you wanted to reduce the gap  
11 for the white area, that would entail; wouldn't it, an  
12 increase in your overall regeneration budget?

13                  A. Yes. I believe my evidence was that  
14 the ability of natural methods; that is, natural  
15 regeneration methods for commercially preferred species  
16 to expand was limited by the availability of suitable  
17 site and stand conditions that we could not simply go  
18 about practising natural regeneration for pine and  
19 spruce everywhere simply because they are lower cost  
20 and that our ability to expand the artificial methods  
21 for those same purposes are limited by dollars, yes.

22                  Q. The other thing you talked about in  
23 terms of these two exhibits was that you said that  
24 there were sound reasons to carry out harvest in areas  
25 that will regenerate to non-preferred --

1 non-commercially preferred species, or commercially  
2 non-preferred species?

3 A. Yes. I actually made that statement  
4 with respect to areas that would be classified as  
5 non-treatable following harvest, and I listed four or  
6 five -- four reasons for that, yes.

7 Q. I just want to ask you a few  
8 questions about those reasons. The first reason you  
9 gave is that the size of the stand may not justify the  
10 reconstruction of roads to return to that stand?

11 A. Well, yes, I said that a return  
12 cut -- remember, I said that the forester had two  
13 options first of all: To bypass the stand simply  
14 because cutting it would leave it in a non-treatable  
15 condition and, in looking at that option, he has to  
16 look at, is a return to that stand going to be possible  
17 or practical.

18 If the stand was too small to make it  
19 worthwhile for a return, then the timber will be lost  
20 anyway. Yes, that was the first reason.

21 Q. Okay, that's fine. I'm going to go  
22 into the other reasons in a moment. But with respect  
23 the reconstruction of roads, which was the upshot of  
24 the first reason, that's essentially an economic  
25 justification--

1 A. Yes.

2 Q. --is it not?

3 A. Yes.

4 Q. Rather than a silvicultural reason?

5 A. Well, you will recall that our  
6 decisions are influenced very much by economics,  
7 everyone's decisions are, and whether a return cut to a  
8 stand is practical is largely dependent upon economics.

9 Q. But economics aside, then there is  
10 not a real silvicultural reason?

11 A. Well, yes, that was reason No. 2.

12 Q. Okay. I'm just talking about the  
13 first reason with respect to roads. Just dealing with  
14 roads, that's an economic reason?

15 A. Yes, reason No. 1 --

16 Q. It is expensive to go back and  
17 construct the roads?

18 A. Reason No. 1 was an economic reason.

19 Q. Okay. Now, the second reason you  
20 talked about was that the stand may be lost to natural  
21 agents anyway?

22 A. That's right. That would be a  
23 biological reason, that if we were to bypass that stand  
24 and leave that timber standing, the timber could be  
25 lost to natural agents such as old age, insects and



1 disease.

2 Q. Is there potential in that case, if  
3 you left that stand to natural agents and let it be  
4 susceptible to natural agents, that its regeneration  
5 may be different than the regeneration that will come  
6 about as a result of going in and cutting that stand?

7 A. Yes, that's a real possibility.

8 Q. Now, the third thing you talked about  
9 was that you were limited in any event by the dollars  
10 that were available for artificial regeneration. So  
11 even if you bypass that stand in favour of a treatable  
12 stand, you may not have the money to treat the  
13 treatable stand in any event?

14 A. Exactly.

15 Q. In that situation, would you agree  
16 that you would probably have to cut more timber in the  
17 non-treatable stand to end up with the same volume of  
18 timber as you would have if you cut in the treatable  
19 stand?

20 A. No. No, not necessarily.

21 Q. Is it a possibility that you would  
22 have to cut a larger area--

23 A. Yes.

24 Q. --of non-treatable stand to match the  
25 wood supply?

1                   A. Yes. And a possibility you might cut  
2 a smaller area also.

3                   Q. Okay. And in terms of natural  
4 agents, we talked about in Panel 10 that leaving a  
5 stand may have benefits for non-timber values; i.e.,  
6 other values in the forest such as certain wildlife  
7 species.

8                   A. It may, it may. Of course bypassing  
9 the stand can result in double depletion also. The  
10 stand may be depleted against the MAD by natural  
11 agents; in other words, being depleted by natural  
12 agents, and you are now bypassing the stand - this is  
13 the hypothetical reason No. 2 again - in favour of  
14 cutting a more treatable stand, so you are depleting  
15 that stand by harvest. You have to be careful that you  
16 are not going to exceed your MAD with this depleting by  
17 both types.

18                  Q. Okay.

19                  A. And being unable to regenerate  
20 either.

21                  Q. In terms of the four reasons that you  
22 talked about for not bypassing these stands, would it  
23 be fair to say that you would know in advance of  
24 harvest that these particular areas will probably  
25 regenerate to a non -- a commercially non-preferred

1 species?

2 A. I'm sorry, would you repeat that  
3 again or rephrase it?

4 Q. You have given the reasons for why--

5 A. Yes.

6 Q. --you would not bypass a particular  
7 stand, and I take it from looking at these reasons that  
8 you would know in advance of harvest which stands would  
9 be likely to come back as non -- commercially  
10 non-preferred species?

11 A. That would be predictable. If you  
12 went to that stand and investigated all of those  
13 factors, the forester would be able to predict the  
14 outcome. However, he may not necessarily go to each  
15 stand in order to make that prediction, there is no  
16 reason for him -- if there is no reason for him to do  
17 so.

18 Q. So if he doesn't go to the stand to  
19 make the prediction and he harvests anyway, he may end  
20 up with this situation?

21 A. Well, yes, yes. That's right, he  
22 realizes that there are sound reasons for harvesting  
23 that stand even if it is later classified as  
24 non-treatable. Since there are sound reasons, he  
25 proceeds with that harvest and he classifies it

1 according to its treatability after the cut. There is  
2 no reason for him to go there to make that prediction.

3 Q. Then how would he -- if he doesn't go  
4 there to make the prediction, how would he know that  
5 the four reasons apply in the circumstance?

6 A. Well, with respect to each four --  
7 all four, he may have general conditions. If he is in  
8 an operating block where the timber is generally old  
9 and decadent and he is in a block in which return cuts  
10 will not be occurring for a very, very long time  
11 because of the age-class of other timber in that block,  
12 then he may have several, if not all of those reasons  
13 firmly in his mind even before he enters the block.

14 It may not be necessarily to make that  
15 decision stand-by-stand and piece-by-piece.

16 Q. With respect to the brown area, the  
17 heavy residual area, would you agree that you are  
18 carrying out a form of highgrading with respect to that  
19 area?

20 A. Yes, a form. Yes, a form of  
21 highgrading.

22 Q. And I think from your earlier  
23 evidence some of the areas that are -- if we look at  
24 the area on 534A at the bottom of the graph referring  
25 to natural regeneration to preferred species, that



1 would include some areas that are harvested but no  
2 money is spent on regeneration at all?

3 A. You're referring to the bottom, the  
4 green area at the bottom of 534A?

5 Q. Yes.

6 A. Yes. It would include some, yes.

7 Q. I am thinking, for example, poplar--

8 A. Yes.

9 Q. --when you talk about a market being  
10 developed for poplar, poplar would move down into that  
11 bottom green area?

12 A. That's right.

13 Q. But you wouldn't be spending any  
14 money on regeneration or probably not even on site  
15 preparation for poplar?

16 A. Yes, that's right. And I mentioned  
17 later on also that as poplar markets continue to  
18 expand, which we expect them to, that more and more of  
19 that white area which is cut and left to regenerate  
20 naturally to poplar would, in fact, be classified as  
21 green because poplar would becoming more and more a  
22 marketable item; a species in demand for particular  
23 industries.

24 Q. Thank you.

25 MS. SEABORN: Mr. Chairman, I probably

1 have about a half an hour left of questions, but this  
2 would be a convenient time for me to break if the Board  
3 would be prepared to break for lunch now for an hour.

4 THE CHAIRMAN: Okay. We will break for  
5 lunch until two o'clock and then finish off your  
6 examination which should finish us around 2:30, and --

7 MS. SEABORN: Half an hour at the most,  
8 Mr. Chairman.

9 THE CHAIRMAN: All right. If Mr. Hanna  
10 would then be prepared to commence his examination, we  
11 will start him at that time.

12 Thank you.

13 ---Luncheon recess taken at 12:53 p.m.

14 ---On resuming at 2:05 p.m.

15 THE CHAIRMAN: Thank you. Be seated,  
16 please. (water spilled) - just save the exhibits.

17 It's all right, we will save the  
18 exhibits, don't worry.

19 MS. SEABORN: Thank you, Mr. Chairman.

20 Q. Dr. Allin, would you agree that while  
21 adding debris to lakes and streams may be beneficial  
22 for some aquatic species, it will not be beneficial for  
23 water quality?

24 DR. ALLIN: A. I would agree that if  
25 large amounts of fine organic debris are added to

1 certain watercourses, particularly small ones, and by  
2 that I mean small streams specifically, that yes, there  
3 could be a detrimental effect on water quality.

4 Q. Well, I can't think of an instance  
5 when adding debris in the water would be beneficial, as  
6 a simple proposition.

7 A. Well, in small streams in forested  
8 areas, particularly headwater streams, a considerable  
9 amount of the food supply for aquatic invertebrates in  
10 those types of streams comes from debris naturally,  
11 from debris falling from trees and that sort of thing.

12 Q. I am not challenging the proposition  
13 that it may be positive for the aquatic environment, I  
14 am just talking about the narrow issue of water quality  
15 per se.

16 As a general rule, adding something into  
17 a stream or lake is not going to be beneficial for  
18 water quality?

19 A. Yes, if you define it that strictly I  
20 would agree.

21 Q. Mr. Kennedy, you spoke about the use  
22 of mechanical site preparation equipment on slopes and  
23 you discussed the potential for erosion is reduced by  
24 operating equipment perpendicular to a site?

25 MR. KENNEDY: A. Yes.

1 Q. What is the maximum slope upon which  
2 you cannot operate equipment in a perpendicular  
3 fashion?

4 A. I don't know of any one per cent  
5 figure slope, there is a range. For instance, in the  
6 statement of the evidence there is a slope figure shown  
7 for a variety of pieces of equipment and it would  
8 depend upon the piece of equipment being looked at.

9 Q. What would the range be?

10 A. It would be possible to operate up to  
11 slopes of 45 per cent.

12 Q. In a perpendicular fashion?

13 A. Yes. I'm looking now at page 372 of  
14 the witness statement.

15 Q. Mr. Kennedy, for the purposes of site  
16 preparation, are all areas near watercourses considered  
17 areas of concern?

18 A. I hesitate to go so far as to say  
19 areas of concern specifically, there are values that  
20 would be considered, yes.

21 Q. And in some cases they may be  
22 identified in areas of concern but, in other cases,  
23 they would not be specifically set out in the area of  
24 concern planning process?

25 A. That's correct.



1 Q. Now, for those areas where they do  
2 not appear in the area of concerns, how do  
3 prescriptions take into account potential adverse  
4 environmental effects on site preparation near  
5 watercourses?

6 A. It would be by employing good  
7 practices such as those that are outlined in the Code  
8 of Practice.

9 Q. Anything else?

10 A. As well as there would be adherence  
11 to the Fish Habitat Guidelines.

12 Q. Thank you. Mr. Hynard, I have a few  
13 questions of clarification that I want to ask you with  
14 respect to FMAs, the subject was brought up yesterday.

15 MS. SEABORN: Mr. Chairman, I asked that  
16 the Board be provided with Exhibit 513 which was an  
17 actual FMA agreement that was filed during Panel 10.

18 THE CHAIRMAN: Yes, we have it.

19 MS. SEABORN: Q. Do you have that in  
20 front of you, Mr. Hynard?

21 MR. HYNARD: A. Yes, I do.

22 Q. Could you turn to Schedule C which is  
23 entitled The Groundrules and, I'm sorry, I can't give  
24 you a page number. It is about in the middle of the  
25 document.

1 A. I have the middle of the document.

2 Q. Does it say Groundrules?

3 A. Yes, I have that.

4 Q. Now, in reviewing these groundrules  
5 it appears to me that they are essentially in a boiler  
6 plate form, and what I mean by that is that if I  
7 compared a number of FMAs, this schedule, in terms of  
8 groundrules, would not be materially different. Would  
9 you agree with that?

10 A. Well, I would certainly agree that  
11 many of the provisions within the groundrules would be  
12 the same in other agreements.

13 Q. And that's because a number of these  
14 provisions would come straight from the timber  
15 management planning manual?

16 A. Although I can't say that  
17 specifically is the reason; however, many of them are  
18 the same.

19 Q. Now, if you look at page 3 of  
20 Schedule C under Specifications and Standards?

21 A. Yes.

22 Q. The second full paragraph, the second  
23 sentence starts:

24 "With this in mind, the Minister will  
25 allow up to 15 per cent deviation by area

1 for the total area treated under the  
2 period covered by these groundrules from  
3 the specifications in the groundrules,  
4 provided the desired objectives and  
5 standards of accomplishment are the same  
6 as those in Table 1."

7 And then it says:

8 "Such deviation should be stated in the  
9 annual work schedule."

10 And I take it with respect to these  
11 deviations that the timber management plan would not  
12 have to be amended, it is only the annual work schedule  
13 that would have to be amended for the up to 15 per cent  
14 deviations?

15 A. No, that's not correct at all.

16 Q. Okay.

17 A. All operations must be in accordance  
18 with the approved timber management plan. What it says  
19 here is that there could be a deviation of up to 15 per  
20 cent of the groundrules stated in this schedule, and  
21 basically that lays out what treatments will occur and  
22 what payment rates will be paid for those various  
23 treatments on those sites.

24 Q. Okay.

25 A. And this is an attempt to ensure that

1 innovation is not limited, however, the timber  
2 management plan itself still applies.

3 Q. So that the groundrules that we would  
4 find in the FMA agreement would not necessarily be the  
5 same groundrules that would end up in the timber  
6 management plan for that management unit?

7 A. Well, they could be, they could be  
8 exactly the same. Let's take a hypothetical where they  
9 are exactly the same and how will this provision work  
10 now.

11 It says here that there is up to a 15 per  
12 cent deviation allowed here in the groundrules. If a  
13 company wished to do so in order to try some innovative  
14 silvicultural technique up to this 15 per cent limit,  
15 they may do so, but they still require an amendment to  
16 their timber management plan and that may be a major  
17 amendment.

18 Q. And what they would not need though  
19 is an amendment to their FMA agreement?

20 A. Exactly.

21 Q. Okay. And if you just continue on in  
22 Schedule C and turn, if you could, to page 14, it is  
23 entitled: Silvicultural Specifications and  
24 Regeneration Standards.

25 Now, in looking at this table that



1 appears as part of the agreement, it is set out in a  
2 similar fashion to Table 4.11 in the timber management  
3 planning manual?

4 A. Table 4.11. Yes, that's right.

5 Q. And an FMA agreement would be  
6 negotiated prior to preparation of the timber  
7 management plan, it would come first and then the plan  
8 would come after that?

9 A. I guess initially in the first round  
10 it would, but if your line of questioning is leading  
11 to: What determines what operations will occur, is it  
12 the negotiated silvicultural groundrules or this table  
13 that we are looking at now, or is it what is contained  
14 in the timber management plan -- is that where you are  
15 leading?

16 Q. Well, let me just go back to an  
17 earlier question. What I was really leading at -- I'm  
18 not going to be getting into the specifics of  
19 groundrules in timber management plans and in FMAs  
20 because that's going to be the topic of Panel 15, what  
21 I was looking at was a sequence of events.

22 It appears to me from the discussion you  
23 had yesterday with Ms. Cronk that the groundrules are  
24 negotiated between MNR and the FMA holder. Now, what I  
25 would like you to confirm for me is that that would

1 occur before preparation of the timber management plan?

2 A. In the case of a new agreement the  
3 silvicul -- I'm sorry, the Table 1, the Groundrules --  
4 Table 1 of the groundrules that we are looking at, this  
5 page 14, would be in place at the time of the signing  
6 of the agreement.

7 And one of the conditions of the  
8 agreement is that the company prepare a timber  
9 management plan within a specified time period, within  
10 six months of the signing of the agreement. So in that  
11 case, this Table 1 would have been prepared before the  
12 silvicultural groundrules of the timber management  
13 plan.

14 Now, it also states in the agreement that  
15 within a specified time period, before the expiry of  
16 the first five years, the company must prepare another  
17 timber management plan, I believe it states within six  
18 months. Actually, they must follow the timber  
19 management planning schedules. They must also come to  
20 agreement with MNR over a new set of groundrules before  
21 the expiry of the old ones. So they would be, I would  
22 presume, simultaneous in the second round.

23 But I think that does beg the question:  
24 Which comes first; is it the negotiations with the  
25 company that leads to these set of silvicultural

1 specifications and regeneration standards, or is it the  
2 timber management planning process?

3 And I should point out that this format  
4 within FMAs was struck long before the new timber  
5 management planning process and, in those days, it was  
6 the negotiations between the two parties which led to  
7 these and the two parties then agreed to use them in  
8 the timber management plan. However, today it is the  
9 timber management planning process which takes  
10 precedence.

11 Q. Well, Mr. Hynard, I don't want to  
12 spend a lot of time on this now, but Exhibit 513 is  
13 dated September 14, 1988 which is after the new timber  
14 management planning manual went into effect. Would  
15 there be any public input into the development of the  
16 silvicultural groundrules as negotiated between the FMA  
17 holder and MNR?

18 A. There is certainly public  
19 participation in new FMAs. There are open houses,  
20 there is public input. I can't say with regard to this  
21 table, but I did point out that with regard to  
22 silvicultural specifications and standards in a timber  
23 management plan, they take precedence and there is  
24 public input, as you have heard already and as you will  
25 hear further in Panel 15.

1 Q. And if a member of the public was  
2 particularly interested in the groundrules that were  
3 put together for this specific management unit, they  
4 would have wanted to be involved in the public open  
5 houses that led to the negotiation of these groundrules  
6 as well as the second step which would be preparation  
7 of the timber management plan where public input was  
8 allowed in that process.

9 I mean, when you said -- when you convert  
10 to an FMA there is public input involved in that  
11 conversion; correct?

12 A. Yes, there is.

13 Q. And if a member of the public was  
14 interested in the silvicultural groundrules for this  
15 particular unit, it would be better for them to make  
16 sure that they participated in the public consultation  
17 that led to this agreement being signed as well as the  
18 public consultation that leads to the timber management  
19 plan being --

20 A. No, I don't think so. I think that  
21 their only need for involvement is in the timber  
22 management planning process, keeping in mind that it is  
23 the product of that process which sets the stage for  
24 all operations which will occur on that area for the  
25 next five-year period.



1                   They have full opportunity to participate  
2           in the timber management planning process, as you have  
3           heard already and will hear further. I don't see any  
4           value, no, in expanding input into the details.

5                   You see, what you should really think of  
6           this Table 1 as, as an agreement between the two  
7           parties on what will be done and paid for.

8                   Q. And so if a member of the public was  
9           concerned about a specific prescription that showed up  
10          in the FMA agreement, then they would have an  
11          opportunity to make representations and perhaps change  
12          that prescription at the timber management planning  
13          process stage; would that be fair?

14                  A. Well, that certainly would be true.  
15          However, if they follow their timber management  
16          planning process they will see all of this and they  
17          will have their input at that time.

18                  THE CHAIRMAN: But that's not the answer  
19          to the question, I don't think. The question is: If  
20          they identify something in the groundrules, in the FMA  
21          groundrules, Table 1 --

22                  MR. HYNARD: To which they objected?

23                  THE CHAIRMAN: To which they object, and  
24          they wait until the timber management planning process  
25          is underway and object there, will they have the

1 opportunity at that stage to have it changed or is--

2 MR. HYNARD: Well, yes.

3 THE CHAIRMAN: --it sufficiently cast--

4 MR. HYNARD: Oh, no, no.

5 THE CHAIRMAN: --assuming that it won't  
6 be changed because it is already part of a signed  
7 agreement?

8 MR. HYNARD: No, Mr. Chairman, I have  
9 said that it's the timber management plan that takes  
10 precedence over -- on all operations which will occur  
11 during that term -- during its term, and they have full  
12 opportunity to participate at that time.

13 So, yes, they have opportunity if they  
14 object to see that changed. They have no guarantee  
15 that it will be changed.

16 THE CHAIRMAN: And if it is changed, is  
17 there an amendment to the FMA table or does it stay the  
18 way it was subject -- but is applied subject to the  
19 change in the plan?

20 MR. HYNARD: Right. According to the  
21 agreement, the company must conduct all its operations  
22 in accordance with its approved timber management plan.

23 If there was a rift - and we are talking  
24 a hypothetical case - between the two sets of  
25 groundrules then, yes, an amendment is in order to one

1 or the other and because the TMP takes precedence, if  
2 that has then been cast, it is an amendment to the  
3 Table 1 of the FMA groundrules which would be in order.

4 THE CHAIRMAN: So the end result of the  
5 whole thing is, if you want to see what is going to  
6 happen, don't rely on the table in the FMA, go to the  
7 plan--

8 MR. HYNARD: Exactly.

9 THE CHAIRMAN: --because it may have been  
10 changed sufficiently and not picked up in amendments,  
11 formal amendments to the agreement and, therefore, you  
12 would be getting the wrong information just looking at  
13 the agreement?

14 MR. HYNARD: Exactly. And if for no  
15 other reason than a 15 per cent deviation is permitted  
16 from these specifications or from these -- yes,  
17 specifications.

18 MR. MARTEL: That doesn't include the  
19 harvest though; does it, just to clarify that, the 15  
20 per cent deviation.

21 MR. HYNARD: That would include anything  
22 on those tables with respect to -- well, let's just see  
23 what it says. It's been two years Mr. Martel since I  
24 worked on these. The deviation, it's on page 3, Mr.  
25 Martel, of that exhibit and it says:

1 "With this in mind, the Minister will  
2 allow up to 15 per cent deviation by area  
3 from the total area treated under the  
4 period covered by these groundrules from  
5 the specifications in the groundrules,  
6 provided the desired objectives and  
7 standards of accomplishment are the same  
8 as those in Table 1. Such deviations  
9 shall be stated in the annual work  
10 schedule."

11 So they are covered by --

12 THE CHAIRMAN: Not shall be, should be.

13 MR. HYNARD: Oh. It says:

14 "...should be stated in the annual work  
15 schedule."

16 That's right, that is what it says.

17 So one if one of those items is harvest, you ask with  
18 respect to harvest could the silvicultural harvest  
19 system be changed, the answer is it would appear to me  
20 yes, provided that the objectives and standards of  
21 accomplishment are the same.

22 And, of course, it must be in accordance  
23 with the approved timber management plan. So if the  
24 company was proposing a deviation that was not included  
25 in the TMP, they would require an amendment, possibly a



1 major amendment to their plan as well.

2 MR. MARTEL: If that were to occur, what  
3 would happen to all your planning for regeneration or  
4 site preparation. Let's say you got an amendment of 15  
5 per cent more, that means you would have to go back and  
6 work over everything else in terms of site preparation,  
7 regeneration...?

8 MR. HYNARD: Well, the whole purpose  
9 behind this is to allow the company some elbow room to  
10 develop new techniques which may work even better.

11 So if they are proposing a deviation,  
12 they are doing so to attempt to find a better  
13 silvicultural prescription or technique to accomplish  
14 the same objectives and meet the same standards of  
15 accomplishment.

16 The reason for the 15 per cent limitation  
17 is that while innovation is good, let's confine it --  
18 let's confine our operations essentially to what we  
19 agreed upon until these new techniques have been proven  
20 and at that time we can amend the groundrules if  
21 necessary.

22 MS. SEABORN: Q. Mr. Hynard, just  
23 picking up on the question asked by Mr. Martel. With  
24 respect to the deviation of any of the silvicultural  
25 prescriptions listed in Table 1, these deviations I

1 take it would be with respect to a silvicultural  
2 package and the land base or the area that you are  
3 concerned with that was covered by the FMA agreement  
4 would not change; is that correct?

5 MR HYNARD: A. Well, that's right.  
6 Like, the total land base of the FMA?

7 Q. Yes.

8 A. No, that would remain the same.

9 Q. And that would be in accordance with  
10 the terms of the agreement, the land base that you were  
11 looking at?

12 A. Yes.

13 Q. With respect to Exhibit 584 which was  
14 filed this morning, Mr. Hynard, this was the comparison  
15 of FMA regeneration program to total for Crown land.

16 A. Yes.

17 Q. Now, irrespective of whether a  
18 company or MNR carries out the regeneration program,  
19 this is a cost that is borne by the Crown; is it not?

20 A. Yes.

21 Q. And on the second page on Exhibit 584  
22 with respect to tending, is that the same situation  
23 where the Crown would pay for the tending?

24 A. Yes. The Crown pays at the rates  
25 that are specified in the groundrules. The groundrules

1 of an FMA are a lot more than simply silvicultural  
2 specifications and so the Crown is paying at those  
3 rates.

4 If the company is enduring higher costs  
5 than the rates that are being paid, then they have a  
6 share of the costs also.

7 MS. SEABORN: Well, Mr. Chairman I am  
8 sure we will come back to the topic of FMAs in Panel 15  
9 I believe.

10 Those are all my questions. Thank you,  
11 gentlemen.

12 THE CHAIRMAN: Thank you.

13 Very well. We are I guess ready for the  
14 Federation of Anglers & Hunters to commence their  
15 cross-examination.

16 Are you ready, Mr. Hanna?

17 MR. HANNA: Yes, Mr. Chairman.

18 THE CHAIRMAN: Very well. Do you require  
19 any time to set up?

20 MR. HANNA: Two minutes. It won't take  
21 me long.

22 THE CHAIRMAN: Mr. Hanna, before we  
23 commence, we would like to ascertain certain things.  
24 How long do you intend to be?

25 MR. HANNA: I undertake to complete my

1 cross-examination by Thursday -- the end of Thursday,  
2 Mr. Chairman.

3 THE CHAIRMAN: Well, we are going to  
4 suggest to you that you undertake to complete by  
5 tomorrow night and we are willing to sit reasonably  
6 lengthy hours today, start tomorrow at 8:30, and sit  
7 until six or 6:30 tomorrow, if necessary.

8 The reason we are asking that is because  
9 your expected cross-examination of, I think the  
10 estimate was two days, is approximately double that of  
11 any other party who has indicated that they want to  
12 cross-examine. And while we are not attempting to  
13 restrict your cross-examination, we feel that you  
14 should be able to organize it in a fashion so that a  
15 day and a half's worth of cross-examination should be  
16 sufficient.

17 In asking you to commence today, as  
18 opposed to tomorrow which was your wish, we did not  
19 intend to add an extra half day and, as a consequence,  
20 we assumed that had you started tomorrow you would have  
21 finished off by the time we rise on Thursday in the  
22 normal situation.

23 We are not going to permit repetition of  
24 areas which have been covered by previous counsel in  
25 their cross-examinations.



1                   There is an obligation on behalf of this  
2 Board to see that this hearing proceeds expeditiously  
3 and with maximum benefit to all parties, including the  
4 Board.

5                   We, therefore, feel that you should be  
6 able to organize your cross-examination in a manner so  
7 that a full day and a half worth of cross-examination  
8 should be sufficient.

9                   If for some reason it turns out that it  
10 is insufficient, then tomorrow late we will deal with  
11 it at that time.

12                   MR. HANNA: Thank you, Mr. Chairman.

13                   Mr. Chairman, I would like to start off  
14 with a slight apology in terms of the scheduling. I  
15 realize that we did cause the Board some inconvenience.  
16 I certainly listened very carefully to your directions  
17 at the last session I was at in terms of the fact that  
18 all parties should be ready to go at any point.

19                   THE CHAIRMAN: And, in addition to that,  
20 we must insist that parties notify the Board of their  
21 intention to cross-examine no later than the end of the  
22 direct evidence of the proponent.

23                   You may not find it necessary to  
24 cross-examine in all cases and obviously you will have  
25 to hear what evidence is going in in direct, but it's

1       difficult for the Board to arrange scheduling with this  
2       number of parties to deal with to find out at the last  
3       minute that a particular party wishes to cross-examine,  
4       wishes to cross-examine for an extended period of time  
5       because we have to schedule other things.

6                       And in this case what is impeding to some  
7       extent the scheduling, is the fact that we have a site  
8       visit scheduled for the following week and,  
9       unfortunately, from time to time we do have to make  
10      adjustments because of, in the case of this week,  
11      illness of one of the counsel for one of the principal  
12      parties. But we do expect all parties to be ready to  
13      go when they are expected to be reached as opposed to  
14      being ready to go when they would like to go on.

15                     MR. HANNA: I appreciate that and that is  
16      why I was offering the apology, sir. I will try in the  
17      future to abide with that as best as I can.

18                     THE CHAIRMAN: Thank you.

19                     MR. FREIDIN: Mr. Chairman, do I take it  
20      that there's a possibility that we won't sit Thursday?

21                     THE CHAIRMAN: There's a very good  
22      possibility.

23                     MR. FREIDIN: Thank you.

24                     THE CHAIRMAN: We are assuming, of  
25      course, Ms. Swenarchuk cannot attend Thursday and I

1 understand that is the case.

2 MR. LINDGREN: That is the case, Mr.  
3 Chairman.

4 THE CHAIRMAN: And you would not want go  
5 ahead with re-examination, of course, until Ms.  
6 Swenarchuk has completed her cross-examination.

7 MR. FREIDIN: Never before Ms. Swenarchuk  
8 is completed.

9 THE CHAIRMAN: And the matter you  
10 referred to to be dealt with, Mr. Freidin, first thing  
11 tomorrow morning, we are prepared to commence at 8:30  
12 tomorrow morning and we should be able to deal with  
13 that within 15 or 20 minutes, I would suggest.

14 It was only the industry that you  
15 indicated wanted to question on that document to date?

16 MR. FREIDIN: That's right and I have  
17 been advised by them that their questions will be few  
18 and brief.

19 THE CHAIRMAN: Very well.

20 MR. HANNA: Mr. Chairman, I would like to  
21 start with a matter that may have been overlooked in  
22 the witness statements and evidence and brought forward  
23 and that deals with a regeneration technique termed  
24 forest drainage, which can be used both for  
25 regeneration and for tending. And I would like to

1 explore that with this panel, if I might.

2 THE CHAIRMAN: Well, forest drainage, is  
3 that a topic that has been dealt with in direct by this  
4 panel?

5 MR. FREIDIN: That topic has not been  
6 dealt with in direct and subject to being corrected  
7 forest drainage is not an operational practice the  
8 approval of which is being sought in this environmental  
9 assessment. Therefore, I would question the need to  
10 deal with it in cross-examination.

11 MR. HANNA: Mr. Chairman, I would like to  
12 refer to the Red Lake Crown management unit plan that  
13 is brought forward by the Ministry as their - I haven't  
14 brought it forward - but perhaps I can simply tell you,  
15 on page 16 of that document, under the topic of tending  
16 and maintenance is the term drainage as a silvicultural  
17 option that is proposed.

18 And I would submit to the Board that  
19 through my cross-examination I think I can demonstrate  
20 to you that that option is being used also for  
21 regeneration within this province.

22 Now, if it isn't -- I am quite prepared,  
23 if the counsel for the Ministry is instructed to come  
24 forward and saying we will not propose to use that in  
25 any way whatsoever in this province as part of this



1 application, I don't need to pursue the  
2 cross-examination. I would fully submit to that.

3 THE CHAIRMAN: Well, I think the  
4 question, Mr. Freidin, is properly: Will your client  
5 be asking for approval under this class environmental  
6 assessment to utilize forest drainage as an optional  
7 method dealing with both regeneration and/or tending?

8 MR. FREIDIN: Mr. Kennedy I believe can  
9 address that.

10 MR. KENNEDY: No, forest drainage is not  
11 part of this undertaking.

12 MR. HANNA: So, Mr. Chairman, then can  
13 we -- then when we get to Panel 15 and we deal with the  
14 Red Lake Crown Management Plan we can simply stroke  
15 that out of an option on that -- on those set of  
16 options that are available for timber management  
17 activities?

18 MR. KENNEDY: That's correct.

19 MR. HANNA: Thank you.

20 THE CHAIRMAN: That's your answer.

21 MR. HANNA: That is saved there, Mr.  
22 Chairman, I think about half an hour. So that's a good  
23 start.

24 I would like to turn to --

25 THE CHAIRMAN: Sorry, go ahead.

1 MR. HANNA: Is there a penalty for  
2 finishing early if we continue on with this, Mr.  
3 Chairman?

4 THE CHAIRMAN: No, but there might be a  
5 prize.

6 MR. HANNA: I would like to turn to Mr.  
7 Clark if I might. There's four topics I would like to  
8 explore with Mr. Clark, and I would like to mention  
9 perhaps before I start with Mr. Clark a matter that has  
10 arisen that I might ask the Board for some direction  
11 on.

12 My client received a request -- somewhat  
13 of an unusual request from the counsel for the  
14 proponent and that was -- we were requested to provide  
15 to the witnesses of this panel a list of documents that  
16 we would be referring to, basically a reading list,  
17 that we might be referring to in our cross-examination.

18 Now, we complied with that and I quite  
19 honestly see some advantage in that in terms of the  
20 process and being able to provide the witnesses with  
21 that documentation ahead of time and provide them then  
22 with the opportunity to give considered answers to what  
23 we might be cross-examining on.

24 It does raise several issues in my mind  
25 that I would just like to perhaps just discuss those

1 with you briefly if I could.

2 The first is the matter of full  
3 disclosure. We certainly support this whole concept of  
4 full disclosure and that's why we complied with the  
5 request from the counsel. The problem it rises is, our  
6 cross-examination is rather dynamic as has just been,  
7 how do you say, proven by the last little exercise we  
8 went through with wetland drainage -- or with forest  
9 drainage.

10 I am perfectly prepared to do my best to  
11 provide the witnesses with whatever information I have  
12 at that point that I expect to cross-examine on, but  
13 there is a possibility of something else to come  
14 forward through review of my client, whatever, that I  
15 might not be able to provide everything that I am going  
16 to cross-examine on.

17 THE CHAIRMAN: All right. That is not a  
18 problem. The general rule is simply, provide what you  
19 can in advance to give the parties, the witnesses an  
20 opportunity to acquaint themselves with it so they do  
21 not have to request a delay during the examination to  
22 read the document, to familiarize themselves with it  
23 before they wish to answer. And that is the general  
24 rule.

25 Should something arise that you cannot

1       comply because of, as you say, reorganizing your  
2       examination and the document is tendered to the  
3       witnesses, they may ask for a few minutes to  
4       familiarize themselves with it. We will, of course -  
5       if that's the case and it seems fair to do so - grant  
6       that time.

7                   The whole purpose is to avoid us having  
8       to do that and delaying the examination, but it doesn't  
9       necessarily mean that you won't be allowed to ask the  
10      question or put the document to them, if it's material.

11                  Now, there's a limit to that too. If  
12      it's going to be a pile of documents that really should  
13      have been handed out in advance because it slows down  
14      the examination completely and we start losing hours,  
15      then we may have something else to say on it.

16                  MR. HANNA: Well, I just wanted to bring  
17      your attention to that. I will try and comply with  
18      that as best I could. There is the other side, which  
19      I'm sure you are aware, and that is the problem of, how  
20      do you say, getting if you will political answers to  
21      questions; in other words, not only considered  
22      answers, but sometimes evasive answers. That's always  
23      a problem.

24                  THE CHAIRMAN: Well, We have established  
25      a procedure and it's usual for most of these



1 proceedings that where the parties need to consult or  
2 obtain directions from elsewhere outside the hearing,  
3 they would normally give an undertaking or we will  
4 request them to give an undertaking to provide the  
5 answer at a later date and you will reserve your rights  
6 to cross-examine on that answer.

7 MR. HANNA: Thank you, Mr. Chairman.

8 CROSS-EXAMINATION BY MR. HANNA:

9 Q. Mr. Clark, I have to bend my neck  
10 here. The new design is quite spacious, it's I guess  
11 the size of the panel we are faced with here.

12 Mr. Clark, during my cross-examination of  
13 you in Panel 10 you caught me somewhat by surprise when  
14 I asked you about the question of consumer surplus and  
15 I believe you said you had some knowledge of the  
16 concept but you couldn't explain it. Is that correct?

17 MR. CLARK: A. Well, I was certainly  
18 familiar with the terminology and was aware that there  
19 is a significant body of literature on it, particularly  
20 as it relates to the identification of  
21 recreationalists' willingness to pay for certain  
22 commodities.

23 But it had been some time since I  
24 actually had any direct involvement in using that  
25 particular concept or any of the tools that would

1 relate to it, so I didn't feel particularly comfortable  
2 dealing with it.

3 Q. But would you not agree with me that  
4 it is virtually impossible to read any modern resource  
5 management policy literature dealing with  
6 socio-economic analysis and not encounter the term  
7 consumer surplus?

8 A. It is. On a fairly recent and  
9 further review since our last meeting, the term is used  
10 quite frequently. And I might add, 10 and 15 years ago  
11 was quite frequent in the literature as well.

12 Q. Mr. Clark, could you tell me your  
13 training in resource management economics and analysis?

14 A. Well, I don't really have any  
15 specific training. In terms of my academic career as  
16 an undergraduate, I took courses in economic geography,  
17 I took a number of courses in resource management at  
18 both the graduate and undergraduate level and  
19 components of those courses did deal with the economic  
20 evaluation of resources and did deal with concepts such  
21 as consumer surplus, willingness to pay, and a variety  
22 of other techniques.

23 But as I pointed out in Panel 10, I am  
24 not an economist.

25 Q. Can you tell me what training you

1 have in social impact analysis?

2 A. I have no formal training in social  
3 impact analysis other than what I described in Panel 7  
4 and I think again in Panel 10 as the school of hard  
5 knocks. And I think all Ministry managers, to some  
6 extent, have a significant appreciation for what I  
7 generally think makes up the business of  
8 socio-economic -- socio impact analysis as a result of  
9 the day-to-day activities that they are involved in and  
10 the planning exercises that the people like myself have  
11 been involved in.

12 Q. You are the witness on this panel  
13 responsible for socio-economic impact analysis of  
14 regeneration options.

15 A. My focus was to identify the  
16 potential effects of renewal on the socio-economic  
17 environment. That does not necessarily imply that I am  
18 an expert in socio impact analysis techniques,  
19 particularly in the context that you are describing  
20 them, I think.

21 Q. Is there someone else on the panel  
22 that is?

23 A. There's this great pause here. I  
24 think perhaps you could make yourself clearer in terms  
25 of exactly what you are asking.

1 Q. Well, I will go back to the question.

2 A. Particularly I think--

3 Q. My question was --

4 A. --as it relates to my evidence.

5 Q. My understanding is your evidence is  
6 the socio-economic analysis of the effects of renewal;  
7 is that not correct?

8 A. Well, as I pointed out in my  
9 evidence, what I did simply was to attempt to identify  
10 the potential -- the range of potential effects of the  
11 activities of renewal on the socio-economic  
12 environment.

13 I also pointed out that I did not employ  
14 any of the methods that I think you may have referenced  
15 in Panel 10 but rather relied on my experience,  
16 experience of Ministry staff, and the evidence of other  
17 panel members on both Panels 10 and 11.

18 Q. I'm hearing you.

19 A. I want to make one other thing quite  
20 clear because I can see us going up the same alley we  
21 went up in Panel 10 and; that is, this particular panel  
22 and my evidence did not relate to the way in which we  
23 analyse decisions that relate to socio-economic effects  
24 and the way in which we weigh alternatives and make  
25 decisions.



1                   That evidence was presented to some  
2 extent in Panel 8 and will be dealt with in  
3 considerable more detail in the planning evidence of  
4 Panel 15.

5                   THE CHAIRMAN: Mr. Hanna, let me just  
6 interject because I think we are going to go around in  
7 a circle here. Mr. Clark, I take it that you do not  
8 consider yourself an expert in socio impact analysis?

9                   MR. CLARK: No, I do not. I have read  
10 some of the literature, but I am not...

11                  THE CHAIRMAN: You have no formal  
12 education in that, so that you would qualify yourself  
13 or seek to be qualified as an expert in socio impact  
14 analysis.

15                  MR. CLARK: That is correct.

16                  THE CHAIRMAN: Okay. And the evidence  
17 that you gave in this panel and Panel 10 directed at  
18 socio-economic impacts was to the extent that you have  
19 just stated?

20                  MR. CLARK: That's correct.

21                  THE CHAIRMAN: Now, Mr. Hanna, I think  
22 that is the answer in terms of his qualifications and  
23 how he on behalf of the Ministry dealt with the  
24 evidence, and I don't think there is any other member  
25 of this panel that qualifies as an expert in social

1 impact analysis; is that correct?

2 Your option at this point, I think, is to  
3 call evidence of your own at some stage in the case to  
4 indicate why, in your client's view, such an expert  
5 should have been employed and put in whatever evidence  
6 that expert might have otherwise put in that may or may  
7 not be contrary to what Mr. Clark has said.

8 But it gets us nowhere to go around the  
9 bush to find out whether or not he is an expert in that  
10 field. I think we have ascertained from his own  
11 admission that he is not.

12 MR. HANNA: Mr. Chairman, I appreciate  
13 that. I think that's helpful because already there's  
14 more pages going by the board, so we are making rapid  
15 progress here.

16 I guess what I am a little bit at a loss  
17 here is: How then to pursue the evidence that has been  
18 brought forward by Mr. Clark in terms of social and  
19 economic impacts associated with this activity.

20 THE CHAIRMAN: Well, you can question him  
21 on what he said, what he stated, ask him questions on  
22 what he has stated and, in some cases, what he has not  
23 stated.

24 And then you make your own case when it  
25 comes time for your experts or your witnesses to put in

1 the evidence that you think should have been put in or  
2 deal with the topics in the way that you think they  
3 should have been dealt with.

4 MR. HANNA: Mr. Chairman, I appreciate  
5 that and I have every intention of taking that  
6 direction and doing that in our evidence-in-chief.

7 One of the situations I'm sure you  
8 appreciate that intervenors such as ourselves are faced  
9 with is that it's hard for us to call the people in the  
10 field, the people who are making decisions. They are  
11 the Ministry, that's the -- they are the people  
12 involved.

13 And one of the things that I would like  
14 to pursue at least - I'm looking for the Board's  
15 direction - is to get the expert opinion of these  
16 people that have come forward in terms of not only what  
17 they are proposing but why they've rejected other  
18 options they may have looked at in terms of the  
19 planning process they have developed.

20 And I can only get that opinion from  
21 these people.

22 THE CHAIRMAN: Well, then they've  
23 indicated in Panel 8 that they have dealt with how the  
24 decisions to some extent are made, the process they go  
25 through. They are going to indicate supposedly in

1 Panel 15 in a more detailed way the planning process  
2 itself, they are going to go through the planning  
3 process as I understand it.

4 If you have specific questions arising  
5 out of their evidence as to why they did or did not  
6 make a certain decision, or why they did or did not  
7 make a certain decision in a certain way, you can ask  
8 this panel to the extent that they can answer it, they  
9 should be in a position to provide answers.

10 If they can't answer it, they should be  
11 in a position to tell you: We can't answer it and then  
12 you have to make the points, in effect, through your  
13 own case. That unfortunately, whether you agree with  
14 it or not, is the process.

15 MR. HANNA: I don't disagree with all the  
16 process, Mr. Chairman, and I am certainly doing  
17 everything I can to abide by it in whatever way is  
18 possible.

19 All I am really asking for is, I see  
20 these people as experts and I would like to get their  
21 expert opinion on things not only what they have done  
22 but what they have rejected and why they've rejected  
23 those kinds of things.

24 THE CHAIRMAN: Well, you will have to ask  
25 some specific questions though as to what they have



1 rejected and perhaps why.

2 I mean they can't just deal with an  
3 abstract concept without further direction or else I  
4 think we are going to get away from what their direct  
5 evidence was.

6 MR. HANNA: I think my questions will be  
7 straightforward of that nature.

8 THE CHAIRMAN: Okay.

9 MR. HANNA: Q. Mr. Clark, have you any  
10 experience in using quantitative techniques? Now, I  
11 appreciate you are not an expert in socio-economic  
12 analysis, but what experience have you had in using  
13 quantitative predictive techniques in socio-economic  
14 analysis even though you aren't necessarily an expert  
15 in that?

16 MR. CLARK: A. Probably very limited  
17 although I am not sure what you mean by that.

18 Q. Well, maybe we will go then to an  
19 exhibit. I believe I asked you to look at the papers  
20 that I have referred to you in your cross-examination  
21 of Panel 10 which was the Social Assessment of  
22 Fisheries Resources, that was on the list of material I  
23 gave to you; is that correct?

24 A. I believe so, yes.

25 MR. HANNA: Mr. Chairman, I would like to

1 file that.

2 THE CHAIRMAN: Very well. That will be  
3 Exhibit No. 586, I believe.

4 MS. CRONK: Mr. Chairman, I'm sorry.  
5 Could I just understand what this document is before  
6 its actually received and marked. I know we can extend  
7 beyond that, but I haven't got it, I have never heard  
8 of it, I don't know what it is.

9 THE CHAIRMAN: Okay. It appears to be --  
10 is this an abstract or the entire article?

11 MR. HANNA: Yes. Mr. Chairman, it is a  
12 whole proceeding and so I rather than bring the whole  
13 proceedings into evidence, I didn't feel that was  
14 necessary, I have included the last two pages are the  
15 complete Table of Contents of the proceedings and I  
16 have indicated -- I have included the covering page and  
17 then a specific article that is in that -- the year of  
18 it is 1987.

19 THE CHAIRMAN: And what exactly is the  
20 relevance of this to Mr. Clark's direct evidence?

21 MR. HANNA: Mr. Clark has just said that  
22 he was uncertain what I meant by quantitative  
23 techniques. This is a specific quantitative technique  
24 and I wanted to get his opinion on why he might have  
25 rejected this type of technique.

1 MR. FREIDIN: Why he might have. Maybe  
2 you should ask him if he considered it and if he  
3 considered it, whether he rejected it and if he says he  
4 rejected it, you ask him why.

5 But other than that, I don't see that...

6 THE CHAIRMAN: Well, Ms. Cronk, this may  
7 be a little unconventional getting this type of  
8 document in, but I think it could be otherwise handled  
9 probably by Mr. Hanna posing a hypothetical, trying to  
10 describe the process in here, and then putting a  
11 question to Mr. Clark whether or not he's considered  
12 using this type of process.

13 Perhaps it might be just as easy to allow  
14 it to be admitted, since Mr. Clark has already, I take  
15 it, read it or referred to it or familiarized yourself  
16 with it.

17 MR. CLARK: If I'm looking at the same  
18 document which is the Transaction of the American  
19 Fisheries Society, I have had an opportunity to look at  
20 it briefly.

21 THE CHAIRMAN: No, I understand you can  
22 object, but --

23 MS. CRONK: I take your point, Mr.  
24 Chairman. I withdraw the remarks without prejudice of  
25 course of getting up again.

1 THE CHAIRMAN: Okay. Very well, we will  
2 admit that as Exhibit 586.

3 ---EXHIBIT NO. 586: Copy of document entitled:  
4 Transaction of the American  
Fisheries Society.

5 MR. HANNA: Q. Mr. Clark, does this  
6 methodology that is described here, does this --

7 MR. CLARK: A. I'm sorry, I'm not sure I  
8 got the whole --

9 Q. I'm sorry. I am referring to  
10 pages -- the actual article is on page 420. I believe  
11 the proceedings is full of various quantitative  
12 techniques, but the one I would like to deal with  
13 particularly is on page 420.

14 A. This is the travel/cost approach to  
15 estimating...

16 Q. The product travel/cost, yes.

17 A. Yes.

18 Q. Now, is that a quantitative  
19 technique, in your view?

20 A. I would classify it as such, yes.

21 Q. Have you any experience in applying  
22 that technique or similar techniques?

23 A. When I did my Master's thesis I,  
24 among other things, interviewed users of the interior  
25 of Algonquin Park and, at that time, as an adjunct to



1 the material that I was collecting for my thesis, I did  
2 collect information on the fixed and variable costs of  
3 recreationalists who use the interior of Algonquin  
4 Park. And the objective in doing that was to try and  
5 identify, as I say, the fixed and variable costs and  
6 also the willingness of those users to pay for an  
7 experience in the interior of the park.

8 And the basic concept that we used in  
9 developing the collection techniques for that study  
10 were based on the concepts that are identified in this  
11 report.

12 Q. A travel/cost approach?

13 A. Yes, partially.

14 Q. I beg your pardon?

15 A. Partially.

16 Q. And as a Ministry employee, can you  
17 explain to me what experience you have had using those  
18 types of techniques?

19 A. Well, beyond that, strictly as a  
20 Ministry employee, very limited.

21 Q. Now, without going through all of the  
22 proceedings that are laid out here, would you agree  
23 with me that this sets out a reasonably comprehensive  
24 assessment of the state-of-the-art in socio-economic  
25 assessment techniques?

1 A. This document?

2 MS. CRONK: I'm sorry, Mr. Chairman, how  
3 can the witness reply to that when he has already  
4 indicated he lacks the expertise to comment on  
5 methodologies like that.

6 THE CHAIRMAN: Plus the fact he indicates  
7 that his familiarity with this document is just limited  
8 to reading this one article and that doesn't  
9 necessarily cover the whole waterfront, I would  
10 suggest.

11 MR. HANNA: Mr. Chairman, in the material  
12 that I referred the witness to, it is all contained in  
13 the proceedings and I had indicated to the witness,  
14 asking him to look at the proceedings in a general way  
15 to get an appreciation of what --

16 THE CHAIRMAN: Well, in order to give an  
17 opinion at all, Mr. Hanna, the witness really has to be  
18 qualified as an expert in the field.

19 He, under no circumstance, based on what  
20 he has told us, could be qualified in that field. So I  
21 don't think his opinion would mean anything one way or  
22 the another.

23 That's with no disrespect, Mr. Clark.

24 MR. CLARK: And there is certainly none  
25 taken.

1 MR. HANNA: Mr. Chairman, I am faced with  
2 a number of opinion questions, and I appreciate fully  
3 what you are saying. I understand the --

4 THE CHAIRMAN: Well, only in the areas  
5 for which he is qualified. That's all he is qualified  
6 to give opinions on.

7 MR. HANNA: Mr. Chairman, that's why -- I  
8 understand. I understand the need to be an expert to  
9 give opinion evidence at these sort of hearings.

10 The concern I have -- as I say, I have a  
11 number of questions here and I'm really getting into a  
12 situation where we're again making great strides in  
13 terms of my cross-examination because I was hoping to  
14 ask this witness for certain opinions on socio-economic  
15 assessment and he is clearly saying he has no expertise  
16 in that.

17 Perhaps -- I don't know whether it is  
18 fair to ask this question at this point, but can I ask  
19 the Board who will we be seeing that I should reserve  
20 these questions for?

21 THE CHAIRMAN: Mr. Freidin, anybody?

22 MR. FREIDIN: We will not be able to  
23 anticipate all the questions. I am not too sure we are  
24 going to be calling anybody who is particularly  
25 qualified in this particular methodology who can answer

1       those questions.

2                   MR. HANNA:  It wasn't the methodology,  
3       Mr. Chairman, it was the whole matter of socio-economic  
4       analysis and different techniques that could be used  
5       there and why the Ministry has rejected and accepted  
6       certain ones.

7                   THE CHAIRMAN:  Well, they have just  
8       indicated that they conduct their socio-economic  
9       analysis on the basis of Mr. Clark's experience, on the  
10      basis of other Ministry personnel's experience, none of  
11      whom is necessarily being put forward as an expert in  
12      this field and that's the way they go about it.

13                   Now, you may take issue with the fact  
14      that they are not going about it the right way, but I  
15      would suggest that's a matter for your own side of the  
16      case to establish.  And we may well agree with you, who  
17      knows.  The point is, there is two sides to the case.

18                   MR. HANNA:  I appreciate that, Mr.  
19      Chairman.  As I say, I wasn't sure whether the question  
20      was appropriate but I thought if I could get some  
21      direction at this point I would take it.

22                   THE CHAIRMAN:  Okay.

23                   MR. CLARK:  Mr. Hanna, one thing I would  
24      like to point out was that, as I indicated, I put this  
25      evidence together as a result of having done it in a



1 particular way, and that does not necessarily imply  
2 that when we are involved in timber management planning  
3 and that we are dealing with socio-economic effects or  
4 decisions that relate to them, that we aren't open to  
5 using a wide range of tools if and when we feel they  
6 are necessary. And I think this is an important  
7 distinction.

8 What I was trying to do here, as I say,  
9 was provide you with an indicatiof as to the range of  
10 potential effects that I was aware of or other staff  
11 were.

12 And I think I pointed out in Panel 10  
13 that, in fact, the kind of tools that we use at any  
14 point in time in the timber management planning process  
15 when we are attempting to reach a decision, for  
16 example, through the area of concern planning process,  
17 are dictated by the particular problem we are dealing  
18 with and the particular circumstance -- situation that  
19 we are in.

20 MR. HANNA: Q. I'm hearing very clearly  
21 what you are saying, Mr. Clark, but you are also saying  
22 to me that you can't comment on socio-economic analysis  
23 techniques because you are not an expert in that area;  
24 is that not correct?

25 MR. CLARK: A. That's absolutely

1 correct.

2 Q. Fine. Thank you.

3 A. I would, however, point out though -  
4 and I just don't want to drop this - that having said  
5 that, the Ministry relies on outside experts, sometimes  
6 consultants to provide them with direction and  
7 assistance in dealing with issues that relate to  
8 socio-economic impacts. And I think that we referenced  
9 a number of instances where this had been done and  
10 perhaps the one that was most obvious was the Lake of  
11 the Woods socio-economic impact assessment that was  
12 done a number of years ago, in the 80s, that we talked  
13 to and which was a case where some non-experts,  
14 somewhat like me, made reference to people who did have  
15 that background and were able to use them in a  
16 consultative way to develop a study.

17 MR. HANNA: Mr. Chairman?

18 ---Discussion off the record

19 THE CHAIRMAN: Sorry.

20 MR. HANNA: I'm sorry, Mr. Martel.

21 MR. MARTEL: Well, I am just saying to  
22 the Chairman that they deal with -- it is my  
23 understanding, maybe I am wrong, that they deal with  
24 site-specific issues and not a broad analysis. Maybe I  
25 am wrong in that interpretation of what Mr. Clark is

1 saying.

2                   They did an analysis -- he did an  
3 analysis or an indication of what the possible effects  
4 might be, but when they deal with specifics, it is more  
5 on a site-by-site basis with not a broad analysis  
6 covering the whole waterfront or the entire area of the  
7 EA at that given time.

8                   MR. CLARK: That's correct, to a point.  
9 I don't want to suggest that there are all these little  
10 wee problems for which there are very simple  
11 approaches, and I think the example that I discussed  
12 earlier when we were dealing with the Lac Seul ferry  
13 proposal where there was a considerable amount of data  
14 collected and analysis done, that was aimed at  
15 providing the kind of information we thought  
16 decision-makers - or the company thought  
17 decision-makers would make - need to arrive at a  
18 sensible conclusion.

19                   MR. MARTEL: But that was on one site?

20                   MR. CLARK: That's right.

21                   MR. MARTEL: It wasn't applicable -- the  
22 point I'm making, it isn't applicable right across  
23 northern Ontario at any given time. That's the only  
24 point I wanted to make.

25                   MR. CLARK: That's correct.

1 THE CHAIRMAN: Okay. Let's try and move  
2 on.

3 MR. HANNA: Well, there are two issues  
4 that come up here, Mr. Chairman, if I could just follow  
5 them.

6 Q. First of all, Mr. Clark, can you tell  
7 me the timber management plans in which you have hired  
8 experts in socio-economic analysis to assist you in  
9 your decisions?

10 MR. CLARK: A. Right offhand I can't  
11 tell you. I suspect that there aren't any, although  
12 I'm not sure when you say an expert--

13 Q. It was your words.

14 A. --what you are referring to.

15 Q. Your words.

16 THE CHAIRMAN: How many plans have you  
17 hired a consultant outside of Ministry personnel that  
18 you can think of to deal with socio-economic impacts in  
19 connection with timber management plans?

20 MR. CLARK: I don't believe there are  
21 any, but I would be glad to defer.

22 MR. HANNA: Q. Mr. Kennedy?

23 MR. KENNEDY: A. I believe the answer to  
24 be zero.

25 MR. HANNA: Mr. Chairman, can I also just



1 touch on this Lake of the Woods plan that the witness  
2 has brought up as an example, and I would like to  
3 pursue that just for a minute, if I could.

4 THE CHAIRMAN: Okay. Within the bounds  
5 of his expertise and knowledge.

6 MR. HANNA: Yes, I understand that. Mr.  
7 Chairman, this is the Table of Contents from that  
8 study, I believe that the witness has referred to. I  
9 would like to enter it as an exhibit, if I could.

10 THE CHAIRMAN: Exhibit 587.

11 ---EXHIBIT NO. 587: Table of Contents from Lake of  
12 the Woods Fisheries Study.

13 MR. HANNA: Q. Now, Mr. Clark, this  
14 study was done by the same consulting firm as did the  
15 Tourism Guidelines; is that correct?

16 MR. CLARK: A. Yes, I believe so. As I  
17 indicated in Panel 10, I believe that the personnel  
18 involved in the study were a little different but the  
19 same company.

20 Q. I believe, you may be able to correct  
21 me here, that none of the personnel that were involved  
22 in this study, the Lake of the Woods Fisheries Study,  
23 are any longer with that company and were not involved  
24 in any way with the Tourism Guidelines; is that  
25 correct?

1                   A. I don't really know. I would have to  
2 check and see -- just check. The authors aren't listed  
3 here. I know that Mr. Usher was a primary author, I  
4 believe, and also wrote the summary article and the  
5 transactions and he is no longer with them and Mr. --  
6 Mr. McKelskie is no longer with them as well.

7                   Q. Now, this particular study was, in  
8 your words, a comprehensive socio-economic analysis  
9 undertaken by your Ministry; is that correct?

10                  A. I would characterize it as reasonably  
11 comprehensive, yes.

12                  Q. And it did include quantitative  
13 techniques; did it not?

14                  A. Yes, it did.

15                  Q. Are there other comparable studies to  
16 the one that we are talking about here that you can  
17 refer me to that the Ministry has undertaken?

18                  A. Well, I guess there is a number and  
19 it might be helpful if I was able to take some time to  
20 identify them.

21                  I know that I was -- I joint-authored  
22 what was called a socio-economic impact analysis of the  
23 Lady Evelyn Wildnerness Park proposal at the time we  
24 were involved in land use planning. That was -- I  
25 might add, I undertook to do with a woman who had her

1       Ph.D in economic geography and specialized in  
2       socio-economic impact analysis techniques. And we also  
3       did one on a number -- at least one other of the  
4       wilderness parks that we dealt with and there are  
5       undoubtedly others which just don't come to mind right  
6       now.

7                       THE CHAIRMAN: Well, this might more  
8       properly be the subject of an interrogatory or, in this  
9       case, an undertaking to provide that list at some  
10      point.

11                      MR. FREIDIN: Mr. Chairman, I am just  
12      wondering how a list of studies that may have been  
13      done, quite apart from timber management planning, were  
14      in fact what might be described as socio-economic  
15      analysis is going to be helpful.

16                      THE CHAIRMAN: Well, why don't you ask,  
17      Mr. Hanna, the questions that: If there were other  
18      studies done -- are you not trying to get at the  
19      question: Why aren't they done in every case or why  
20      aren't they used more? I mean, what's the point --

21                      MR. HANNA: Okay. I guess there are  
22      three points to the question, Mr. Chairman. The first  
23      is what you have just described, and that seems clear.

24                      The second question is, is the matter of  
25      the techniques that have been used and considered and

1 perhaps rejected for reasons I may not know.

2 And the third is the matter and which I  
3 think is central to, as I think I said at the last  
4 cross-examination, that is the amount of information  
5 that's needed to arrive at those types of conclusions.

6 And one of the questions I was going to  
7 ask Mr. Clark was the question of: Was this  
8 information used -- this particular study, the Lake of  
9 the Woods study, developed simply from file information  
10 and what type of information was necessary to be  
11 collected given this type of analysis to arrive at a  
12 conclusion.

13 So that's the third element that I am  
14 interested in because I see this question of minimum  
15 information being important in this hearing.

16 THE CHAIRMAN: Well, can you answer that  
17 third question?

18 MR. CLARK: Could you ask it once more,  
19 just...

20 MR. HANNA: Q. Sure. Are you aware of  
21 whether this study was based solely on file  
22 information?

23 MR. CLARK: A. No, I believe it was not  
24 based entirely on file information. I know for sure  
25 that the consultant undertook fairly detailed surveys



1 of a variety of stakeholders who had an interest in the  
2 fisheries resource on the lake.

3 Q. And the reason that information was  
4 done was because that file information was not  
5 available; is that correct?

6 A. Well, I think that's largely correct.  
7 They were looking for specific information on the --  
8 everything from the demographic characteristics to the  
9 various user groups through to the value that they  
10 attached to the fisheries resource and the amount that  
11 they used it.

12 Q. Would you say any of that information  
13 was frivolous or unnecessary?

14 A. Not in the least. In this particular  
15 instance it was deemed necessary in order to deal with  
16 a particular problem, and I stress that. The  
17 particular problem was identified in that particular  
18 case.

19 Q. Did this particular problem involve  
20 tourist outfitters, local anglers, non-local anglers,  
21 native groups, many of the same stakeholders that are  
22 involved in the timber management plan?

23 A. Oh yes. Very much the same cast of  
24 characters, although not quite the same.

25 Q. Okay, thank you.

1 THE CHAIRMAN: Mr. Hanna, would you find  
2 a convenient time. We are going to take an afternoon  
3 break.

4 MR. HANNA: I've sort of been flying by  
5 the seat of my pants here, Mr. Chairman. My  
6 cross-examination hasn't followed the direction I  
7 expected, but we are making great progress.

8 So, yes, it would be great.

9 THE CHAIRMAN: Okay, 20 minutes. Thank  
10 you.

11 ---Recess taken at 3:15 p.m.

12 ---On resuming at 3:40 p.m.

13 THE CHAIRMAN: Thank you. Be seated,  
14 please.

15 Mr. Hanna?

16 MR. HANNA: Mr. Chairman, during the  
17 break I have tried to go through and rule out any  
18 opinion questions that were in my cross-examination.

19 I have a number of factual questions that  
20 I would like to put to Mr. Clark, and I believe he  
21 should be able to answer them.

22 THE CHAIRMAN: Okay. They are going to  
23 be relevant to renewal and tending?

24 MR. HANNA: Yes, sir, absolutely.  
25 Perhaps I will tell you where I am going on this so

1       that we can appreciate that at the beginning.

2                   THE CHAIRMAN:   Okay.

3                   MR. HANNA:   I guess I am coming at it  
4       from two points of view.   The first is that there has  
5       been, in my view, a number of requests put forward to  
6       the Ministry in terms of the way that they go about  
7       socio-economic assessments, and I would like to know  
8       from Mr. Clark how it was decided that those views  
9       should not be considered, and it deals specifically  
10      with socio-economic assessment and how that might be  
11      applied in renewal applications.

12                   The second matter that I would like to  
13      speak to him about, which is again a relatively factual  
14      thing, is the current exercise that our country is  
15      involved in which is called the National Forest Sector  
16      Strategy which has a number of things to say about how  
17      socio-economic assessment of timber management  
18      activities including renewal should be undertaken.

19                   So there are two elements I would like to  
20      get some direction in terms of how the Ministry is  
21      responding to those.   And they are not -- I am not  
22      going to him ask him, as I say, for expert opinion  
23      evidence but more factual evidence.

24                   THE CHAIRMAN:   Okay.   Put your questions  
25      and we will go from there.

1 MR. HANNA: Thank you, Mr. Chairman.

2 Q. Mr. Clark, is it your view that the  
3 forest industry is promoting the use of more explicit  
4 economic evaluations to assist in tradeoffs between  
5 timber and non-timber values?

6 MR. CLARK: A. I think you would  
7 probably be better to ask the forest industry than me.  
8 I would suggest that we are certainly trying to be as  
9 explicit as we can; that is, the Ministry of Natural  
10 Resources.

11 Q. I was asking if you had received any  
12 comments to that effect, again strictly factual things.  
13 I am just asking, have you received any factual  
14 comments from the forest industry to that respect -- in  
15 that respect?

16 A. None that I can put my finger on.

17 Q. Have you read the paper prepared by  
18 Mr. Oppen from the E.B. Eddy Forest Products Company  
19 Limited at the November, 1988 Conference on Forest  
20 Investment. It was co-sponsored, that conference, by  
21 your Ministry?

22 A. I attended part of that conference  
23 and I very, very vaguely remember that paper. But it  
24 was one of a number of papers and I was only there for  
25 a portion of the conference, so I can't really speak to



1 it with any authority.

2 Q. I believe, Mr. Baker, you were on the  
3 coordinating committee of that conference; is that  
4 correct?

5 MR. BAKER: A. That's correct.

6 Q. Are you familiar with Mr. Oppen's  
7 paper?

8 A. No, I did not hear his talk and I  
9 have not seen a written copy of his paper, and the  
10 proceedings from that symposium still have not been  
11 published and the papers are in the final review  
12 process.

13 Q. Perhaps you would give the Board some  
14 indication when you expect those to be available?

15 A. I suspect within about the next  
16 two-month period they will be released.

17 Q. Draft copies of some of the papers  
18 are available though; is that correct?

19 A. Yes. Some of them have been released  
20 on the condition that they are draft papers at this  
21 time.

22 Q. Mr. Clark, to the best of your  
23 recollection as to what Mr. Oppen said, was not one of  
24 his major criticisms of the proposed timber management  
25 planning process the lack of, I think his terms were,

1 economic rationality in the decision-making process?

2 MR. CLARK: A. It may be. I don't  
3 recall, I'm sorry, and I really wouldn't want to  
4 comment without being able to see the paper.

5 Q. Are you aware of other groups that  
6 have made submissions to your Ministry requesting  
7 explicit economic analysis in your timber management  
8 planning?

9 A. There may well have, but I can't say  
10 with assuredness who they are.

11 MR. HANNA: Mr. Chairman, I would like to  
12 show the witness a brief, it's entitled: Response to  
13 the Class Environmental Assessment for - in those  
14 days - Forest Management on Crown Lands in Ontario, and  
15 it's prepared by the Ontario Federation of Anglers &  
16 Hunters.

17 THE CHAIRMAN: Well, you can show it to  
18 the witness. I don't know if he's seen it before.

19 MR. HANNA: I'm simply going to ask him  
20 to look at two particular -- simply two sentences in  
21 it, sir.

22 THE CHAIRMAN: Very well. Exhibit 588.

23 MR. FREIDIN: Mr. Chairman, if Mr. Hanna  
24 wants to get information before the Board as to what  
25 the position of the Ontario Federation of Anglers &

1 hunters is or was on this environmental assessment, I  
2 would strongly urge that they do it in their own case.

3 To put questions to this witness as to  
4 whether he agrees to certain propositions put -- I know  
5 we have adopted this procedure to allow documents to go  
6 in in this fashion, but I guess I have jumped to my  
7 feet after having sat through many panels and not  
8 objecting to this way of putting in evidence.

9 I just think it's going to the point  
10 where it's clear this is part of his case.

11 THE CHAIRMAN: Well, it may be, but I  
12 think the Board wants to be somewhat flexible, Mr.  
13 Freidin. I don't think this is going to take very  
14 long; is it, Mr. Hanna?

15 MR. HANNA: Two questions, Mr. Chairman.

16 THE CHAIRMAN: He could read the  
17 sentences in by way of a hypothetical or he could read  
18 the sentences in and ask the question and I think we  
19 are going to spend more time arguing about whether it  
20 should go in than just getting an answer.

21 MR. FREIDIN: Very well, Mr. Chairman. I  
22 feel better just...

23 THE CHAIRMAN: Exhibit 588.

24 MS. CRONK: That's pretty scary.

25 THE CHAIRMAN: When you are sitting all

1 day, I am sure standing up every once in a while makes  
2 everyone feel good.

3 MS. CRONK: I just don't want him to feel  
4 real well, Mr. Chairman, that's all.

5 ---EXHIBIT NO. 588: Brief entitled: Response to Class  
6 Environmental Assessment for  
7 Forest Management on Crown Lands  
in Ontario, prepared by OFAH.

8 MR. HANNA: Mr. Chairman, I appreciate  
9 Mr. Freidin's comments, just so I can respond, because  
10 I think there is some merit in what he said.

11 I'm doing my very best not to enter our  
12 evidence through my cross-examination and I have heard  
13 the Board and I have heard Mr. Freidin's objection and  
14 I am doing my very best to avoid that. I appreciate  
15 that we will have, if you will, our time in court to  
16 deal with that and we intend to do so.

17 I think just to reiterate where I am  
18 coming from in this, I am very interested in getting  
19 the opinions of the Ministry employees in terms of  
20 these sorts of matters, and I could have simply just  
21 read the individual sentence out, but I really feel  
22 it's important to get the context and that is the  
23 rationale for my approach on these matters.

24 But just so you understand, I am not  
25 trying to attempt to enter all my evidence through my



1 cross-examination.

2 THE CHAIRMAN: Well, I suggest if you  
3 were, you would have some difficulty, but let's go on.

4 MS. BLASTORAH: Mr. Chairman, was that  
5 Exhibit 587?

6 THE CHAIRMAN: I have 588.

7 MS. BLASTORAH: 588.

8 MR. HANNA: Q. Mr. Clark, could you turn  
9 to page 3, please. Could you read the paragraph under  
10 the heading benefit/cost analysis, please.

11 MR. CLARK: A. Yes, I can.

12 "In the draft document it is assumed that  
13 a segment of the tourist industry depends  
14 on a remoteness for its success.

15 Consideration of other possible  
16 alternatives have not been addressed and  
17 a benefit/cost analysis has not been  
18 discussed. Denials of road access or  
19 requests for modified management areas  
20 should not be based solely on subjective  
21 Aesthetic values. Rotational cutting  
22 should be permitted along lakes and roads  
23 to permit promote habitat regeneration of  
24 all forested areas while maximizing the  
25 timber benefits and reflecting the

1 principles of forest ecology."

2 Q. Now, does that suggest to you that  
3 this particular interest group was requesting from your  
4 Ministry to use more explicit quantitative techniques?

5 A. Well, to the -- yes, I believe it  
6 does, if -- assuming they mean the opposite when they  
7 say subjective aesthetic values, for example.

8 Q. Well, what is your interpretation of  
9 a benefit/cost analysis?

10 A. I would call that a more sort of --  
11 in your language, a quantitative approach.

12 Q. Now, I believe you are a policy  
13 officer within the Ministry and you have a major  
14 responsibility for the Class Environmental Assessment;  
15 is that correct?

16 A. Yes, that's correct.

17 Q. Can you tell the Board why your  
18 Ministry has decided to overlook the demand of groups  
19 like the forest industry and the Ontario Federation of  
20 Anglers & Hunters asking for explicit analysis of  
21 socio-economic impacts?

22 MS. CRONK: I'm sorry, Mr. Chairman, I  
23 truly am, but it hasn't been established in the  
24 evidence yet that that is an industry position at all,  
25 it's an assertion of the Ministry's position, and so I

1 would ask Mr. Hanna to rephrase his question.

2 MR. HANNA: I retract that, Mr. Chairman.  
3 Ms. Cronk, I will be responding to that in a moment in  
4 some other information that I will be coming to, but I  
5 will retract it for the time being, Mr. Chairman.

6 Q. Can you tell the Board, Mr. Clark,  
7 why your Ministry has decided to overlook the demand of  
8 groups like the Ontario Federation of Anglers & Hunters  
9 in asking for explicit analysis of socio-economic --

10 THE CHAIRMAN: That appears to be the  
11 same question, in effect.

12 MR. HANNA: No. I believe Ms. Cronk's  
13 objection was because I included the Ontario Forest  
14 Industry -- or the forest industry.

15 THE CHAIRMAN: Well, I don't know. Ms.  
16 Cronk, was not your question also addressed to the fact  
17 that the position of the Ministry has not yet been  
18 stated clearly on the record.

19 MS. CRONK: It was to both, but in  
20 fairness to, Mr. Hanna...

21 THE CHAIRMAN: You objected on behalf of  
22 the industry?

23 MS. CRONK: I did, sir, but I am quite  
24 prepared to live with the second objection. In fact, I  
25 am not as fast on my feet as perhaps I should be and

1 would put some limitation on the rule.

2 THE CHAIRMAN: Well, we can perhaps come  
3 out with it quicker because we don't have to stand up.

4 MS. CRONK: That is very courteous.

5 MR. HANNA: Mr. Chairman, perhaps I am a  
6 little bit confused then by the objection. It's my  
7 understanding that the Ministry has come forward with a  
8 proposed timber management planning process and unless  
9 Mr. Clark wishes to tell me otherwise, I do not know in  
10 that timber management planning process there is what  
11 would be deemed any type of benefit/cost analysis in  
12 the way I think is being referred to in this brief.

13 Now, if I am incorrect in that, I am  
14 prepared to stand corrected.

15 THE CHAIRMAN: Is that the position of  
16 the Ministry, that in the whole timber management  
17 planning process there is no cost/benefit analysis  
18 undertaken whether explicit or implicit?

19 MR. CLARK: I am a little frustrated by  
20 this line of questioning because it seems to imply that  
21 we employ very a subjective judgmental approach to  
22 making decisions, that we are not systematic and that  
23 we do not function in an objective sort of coherent  
24 way. And I think nothing could be further from the  
25 truth.



1                   I think that we have not specifically  
2 identified within the context of the process we have  
3 described in this document -- and I refer, for example,  
4 particularly to the area of concern planning process in  
5 Appendix 1, we have not identified in explicit detail  
6 the various tools that could be used in those instances  
7 where they were necessary.

8                   And I think it's very important to  
9 understand and I think one of the problems that is  
10 totally confusing and comfounding this discussion from  
11 my point of view is, we are not talking at all about  
12 the real world in which timber management occurs, and  
13 in that world when we are dealing with the development  
14 of timber management plans we deal with a wide range of  
15 problems which are identified through the timber  
16 management planning process which may relate to  
17 harvest, they may relate to renewal, or a combination  
18 of a variety of these activities; and they range from  
19 problems that are quite simple and straightforward for  
20 which the level of analysis is fairly limited and, from  
21 a practical point of view, would not be necessary to  
22 employ highly sophisticated weighting, rating and  
23 analytical tools that Mr. Hanna refers to.

24                   And, on the other hand, there may be  
25 instances where the problems are more complex, where

1 the risks are more significant and where the need for  
2 choosing appropriate tools is more -- or where there is  
3 a need for more sophisticated analysis.

4 The other point I would like -- so that I  
5 think what I have been trying to say is not that we do  
6 not ever espouse the use of tools like socio-economic  
7 impact analysis, or cost/benefit analysis, or as I  
8 refer to earlier, financial analysis or a variety of  
9 other objective techniques for evaluating peoples'  
10 response, it is simply that in many cases those tools  
11 are not necessary.

12 And I think I've made it quite clear that  
13 when we feel they are necessary, I am sure we will use  
14 them.

15 MR. HANNA: Mr. Chairman. I would submit  
16 to you he has just given opinion evidence.

17 THE CHAIRMAN: Well...

18 MR. HANNA: I think he's just gone  
19 through and tried to explain to us why he sees  
20 different tools in socio-economic assessment should or  
21 should not be used. I simply submit to the Board it  
22 sounds to me very much like opinion evidence.

23 MS. BLASTORAH: Well, Mr. Chairman, he  
24 was asked specifically why the Ministry does and does  
25 not use these, and what he gave was the Ministry's

1 position as to why they feel it's not necessary.

2 THE CHAIRMAN: That surely, Mr. Hanna, is  
3 a factual answer. He's giving an answer as to, in what  
4 circumstances the Ministry would consider the use of  
5 these things and in what circumstances they would not.

6 He's not giving any opinion as to the  
7 value of them, the efficacy of them, et cetera. He's  
8 not an expert on the methodology himself, but he can  
9 certainly indicate for the Ministry when and when not  
10 the Ministry would or would not consider using them.

11 MR. HANNA: Q. Mr. Clark, who in the  
12 Ministry would make those decisions when and when not  
13 to use them?

14 MR. CLARK: A. Well, I think I can speak  
15 a little bit about that. In the timber management  
16 planning process - and I don't want to repeat evidence  
17 here - but I think it's important to understand the  
18 context within which these kinds of decisions are made.

19 You have a planning team with a chairman.  
20 That planning team has a responsibility to develop a  
21 plan and in developing that plan it has to identify the  
22 various issues -- or has to take into consideration the  
23 various issues, values, land uses that are identified  
24 by various stakeholders.

25 In instances when significant problems or

1 issues arise, the planning team has to make decisions  
2 about the most appropriate way to deal with them.

3 Now, as I say, many of these are dealt  
4 with in a fairly routine way. When the issue becomes  
5 more complex, it will undoubtedly be drawn to the  
6 attention of the district manager and I can assure you  
7 that that happens regularly and decisions are then made  
8 by that district manager as to what the most  
9 appropriate course of action is.

10 And in referring back to the evidence of  
11 Panel 8 and my evidence in Panel 7, that district --  
12 that good district manager who I referred to in an  
13 earlier panel, has to make that decision and would  
14 normally make it on the basis of advice which he would  
15 receive from a number of sources; from regional  
16 specialists, possibly from a resource economist who  
17 works in the Planning and Environmental Assessment  
18 Branch in main office, or from a variety of other  
19 sources.

20 And on the basis of the kinds of  
21 information that he or she would receive, he would make  
22 a decision on what the most appropriate course of  
23 action would be.

24 So what I am saying is, it's a fairly  
25 flexible system that allows the person who is



1 responsibility for the plan to consult and arrive at a  
2 conclusion as to what the most appropriate technique  
3 is.

4 MR. HANNA: Q. I believe we have  
5 established, however, there hasn't been a sufficiently  
6 significant problem yet arising in timber management  
7 planning that your Ministry has seen necessary to use  
8 these tools?

9 MR. CLARK: A. Well, that is largely  
10 correct and I thought about that at the time that it  
11 was mentioned because, you know, I have said this can  
12 all happen and I believe it can.

13 Many of those basic decisions are  
14 allocation decisions that have to do with who gets what  
15 when and where are made at the District Land Use  
16 Guideline stage of the process which we introduced in  
17 evidence in Panel 1.

18 And at that stage some very significant  
19 decisions are made about how -- what objectives various  
20 programs have and how the needs of various programs and  
21 stakeholders will be met.

22 So that a lot of the basic decisions that  
23 have to do, as I said, with who gets what when and  
24 where -- who gets what when and where are already made.

25 When you get into timber management

1 planning, while there are undoubtedly problems and  
2 issues that have to be dealt with, many of the bigger  
3 issues have already been dealt with in that earlier  
4 planning process which is why we have it there.

5 And when you get into timber management  
6 planning, it's getting down to the -- it's a much more  
7 operational form of planning that deals much more  
8 specifically with meeting the objective to provide a  
9 continuous predictable supply of wood to area mills  
10 and, at the same time, take into consideration other  
11 environmental concerns.

12 And so I think my position is simply that  
13 many of those decisions are already made. We are  
14 dealing at a more optional level and, as a result of  
15 that, we rarely get into really detailed analysis of  
16 the type that you are suggesting, but I would emphasize  
17 once again, and I say this as a one-time manager, I had  
18 a whole quiver full of arrows that I could use and the  
19 important thing was to choose the right one for the  
20 particular situation that I was dealing with..

21 And, in some instances, that simply meant  
22 relying on the planning team to look at the situation  
23 and make a decision and other times it meant that I had  
24 to rely on advice from other sources to assist me in  
25 choosing the right approach.

1                   One last point I want to make about this  
2           is that there is an assumption here that if things are  
3           quantified, if they have the air of being systematic  
4           about them, they are necessarily better than the  
5           exercise of sound professional judgment, the sound  
6           professional judgment of local managers who look at an  
7           array of different data types, some of which is  
8           economic, some of which relates to opinion evidence  
9           from various stakeholders, and all of this is arrayed  
10          and we tend to take the more qualitative, if you want,  
11          subjective approach in arriving at decisions rather  
12          than the very complicated and somewhat less, I think I  
13          would say, a harder approach than what we do which we  
14          feel works well in the context of the groups that we  
15          normally work with, particularly at the field level.

16                   Q.   Are you familiar with U.S. Forest  
17          Service approach to forest planning which is tiered  
18          similar to the Ministry of Natural Resources approach?

19                   A.   I have some familiarity with it,  
20          although I was just saying the other day, having never  
21          worked there and because I am not entirely aware of  
22          their particular situation and the scale at which they  
23          work, I would be hesitant to talk about it.

24                   Q.   So you wouldn't be able to tell me  
25          whether they use a similar process as the Ministry in

1 terms of establishing broad guidelines and then using  
2 explicit quantitative techniques at the operational  
3 level, at the individual forest level to make  
4 decisions?

5 A. No, I don't think I would care to  
6 comment on that.

7 Q. Fine. You raised a couple of points  
8 there in your answer that was quite long, Mr. Clark.  
9 One of them is the matter of going outside the planning  
10 team and using these outside experts. Would it be  
11 possible for you, given time, to give me an example of  
12 some of those situations where you have gone outside  
13 the team and applied that sort of expertise?

14 A. In a socio-economic context?

15 Q. Yes.

16 A. The broader --

17 Q. No, in an operational level.

18 A. Well, I think we do it all the time.

19 Q. That will be easy then to give me a  
20 couple of examples.

21 A. Well, I can certainly give you some.  
22 Problems that relate, for example, to the potential  
23 impact of harvest or the renewal operations on moose  
24 populations are also of concern to tourist operators,  
25 the impact that those operations would have at the



1 local level as opposed to the wildlife management unit  
2 level were issues of concern to me.

3 When we were doing timber management  
4 plans in Wawa District I spent a considerable amount of  
5 time talking with my wildlife biologist, but I also in  
6 those instances referred to the wildlife biologist in  
7 the region who was a specialist and I believe we also  
8 had contact with people like Dr. Euler. That would be  
9 an example.

10 Now, the potential impact was a  
11 socio-economic one because the concern was that  
12 potential reduction in hunting quality that tourist  
13 operators would face.

14 I think that pattern is a fairly normal  
15 one in the Ministry, that you may want to consult  
16 outside your own staff to get confirmation of their  
17 thinking.

18 Q. The other matter that you suggested  
19 there and inferred in my questions, which I don't think  
20 was correct, and that was that I was suggesting these  
21 explicit quantitative techniques as a substitute for  
22 professional judgment.

23 Was that what you interpreted I was  
24 saying, or am I saying -- or perhaps I will tell you  
25 what I was saying and; that is, that these can be a

1 good tool to assist professional judgment of those  
2 experts at the operational level. Would you disagree  
3 with that?

4 A. No, I wouldn't. I think that's a  
5 good description.

6 Q. And you would agree that that is the  
7 appropriate way to use these types of techniques?

8 A. I think -- yes, I believe that's the  
9 case.

10 THE CHAIRMAN: Sorry.

11 MR. HANNA: Mr. Chairman, I am trying to  
12 think here. I am trying to move this along as quickly  
13 as I can. There is a background paper that led up to  
14 the National Forest Sector Strategy. I am thinking  
15 that...

16 THE CHAIRMAN: I would put it in under  
17 your own party's case.

18 MR. HANNA: That is what I was going to  
19 suggest.

20 THE CHAIRMAN: This witness has indicated  
21 he's not really familiar with that and it wouldn't do  
22 any good to put it in at this point, I don't think.

23 MR. HANNA: So -- that's what I am  
24 saying. I think the background paper is not important,  
25 but the National Forest Sector Strategy is something

1       that their Ministry is involved in and whatever, I  
2       think is very instructive in terms of timber management  
3       planning.

4               THE CHAIRMAN: Just a moment. We have to  
5       relate this cross-examination to the direct  
6       examination. If there's nobody on the panel that can  
7       deal with that particular issue, then I think you are  
8       going to have to wait until your case to put in the  
9       whole thing.

10              You've asked Mr. Clark, is he familiar  
11       with that, he's not.

12              MR. HANNA: Excuse me, Mr. Chairman. I  
13       don't think I have asked him that, but perhaps I did.  
14       I have forgotten if I have.

15              THE CHAIRMAN: Well, I thought that was  
16       in the context of the U.S. Forest Service practices.

17              MR. HANNA: No, no, no, Mr. Chairman. I  
18       am sorry.

19              THE CHAIRMAN: I'm sorry, I missed your  
20       question.

21              MR. HANNA: Our communications -- yes.  
22       This is the National Forest Sector Strategy, is the  
23       Canadian National Forest Sector Strategy.

24              THE CHAIRMAN: Oh, okay.

25              MR. HANNA: And the Ministry of Natural

1 Resources is a participant in that strategy.

2 THE CHAIRMAN: All right. Well, to the  
3 extent that one of the witnesses can answer questions  
4 on that and it relates to renewal and harvesting, it's  
5 appropriate.

6 MR. HANNA: Okay. Perhaps, again, I will  
7 try to give you the context in which I would like to  
8 ask the questions on this particular paper.

9 THE CHAIRMAN: Okay.

10 MR. HANNA: I believe when you see the  
11 paper you will see that it speaks very strongly to  
12 certain techniques in terms of socio-economic  
13 assessment and, particularly dealing with timber  
14 management activities including renewal.

15 And so I -- and, as I say, the Ministry  
16 is a participant in that and I would like to see how  
17 that relates to the timber management planning process  
18 that's being put forward, particularly with respect to  
19 renewal.

20 THE CHAIRMAN: Very well. Okay.

21 MR. HANNA: (handed)

22 THE CHAIRMAN: Thank you. Exhibit 589.

23 ---EXHIBIT NO. 589: Document entitled: Canadian  
24 Forest Sector Strategy.

25 MR. HANNA: Q. Mr. Clark, I believe your



1 Ministry is actively involved in this particular  
2 exercise; is that correct?

3 MR. CLARK: A. I believe they are, yes,  
4 we are.

5 Q. Could we turn to the preface which is  
6 (v) in the exhibit. Now, paragraph 5 provides some  
7 background of the evolution of the strategy. Are you  
8 familiar with the material referred to, particularly  
9 the August, '86 issue of the Forestry Chronicle  
10 describing discussions leading up to this strategy?

11 A. No, I'm not familiar with that  
12 article.

13 Q. Are you familiar with any of the  
14 recommendations in this strategy with respect to  
15 socio-economic analysis?

16 A. Well, I haven't looked at it  
17 recently, I just got it now.

18 Q. Well, perhaps you could turn to page  
19 17 for me -- excuse me, can you turn to page 10, I am  
20 sorry. I believe the recommendations are in italics.  
21 Would you be able to read to me the second  
22 recommendation there in italics?

23 A. "It is recommended that allocations  
24 to exclusive uses..."

25 Is that the one?

1 Q. Yes, please.

2 A. "...be subjected to rigorous  
3 cost/benefit analysis and the loss of  
4 supply through reallocation or withdrawal  
5 of commercial forest levels be offset  
6 where practicable by more intensive  
7 management on the remaining forest."

8 Q. Thank you. Now, what is your  
9 interpretation of the word rigorous used there in the  
10 first line in this context?

11 THE CHAIRMAN: Well, Mr. Hanna, although  
12 the witness may wish to answer that question, you have  
13 handed him a document that is fairly complex and pulled  
14 out of the middle of it a particular recommendation.

15 I would suggest in order to provide a  
16 meaningful answer to the Board, he might have to have  
17 the opportunity of reading the entire document or at  
18 least reading the section dealing with the  
19 recommendations.

20 And perhaps in view of the length of this  
21 document, it might be one that he should perhaps review  
22 overnight and perhaps you could return to your  
23 questions on this in the morning.

24 I don't know, Mr. Clark, if you are  
25 prepared to give an answer based on not having read the

1 document, as I understand you have not--

2 MR. CLARK: No, I have not.

3 THE CHAIRMAN: --go ahead.

4 MR. CLARK: I am not really comfortable  
5 with the idea of talking about this without having seen  
6 what's on either side of it.

7 MR. HANNA: Mr. Chairman, this raises  
8 just another thing I started out with on this. This  
9 was on the reading list to the panel. I tried to  
10 direct who I was anticipating to ask these questions to  
11 and, unfortunately, I suggested Mr. Hynard to read it  
12 rather than Mr. Clark. Perhaps in the future I will  
13 simply say these are things that the panelists might  
14 refer to.

15 But anyways, I did attempt to try and  
16 give some notification, but I will certainly hold off  
17 until tomorrow to ask these questions.

18 THE CHAIRMAN: And you want to ask Mr.  
19 Clark these questions?

20 MR. HANNA: Well, because -- originally I  
21 had thought that Mr. Hynard might be able to answer the  
22 questions, but in looking in more detail at the  
23 evidence that they presented, I felt Mr. Clark, for  
24 these specific questions, would be more appropriate.

25 THE CHAIRMAN: Well, we can't fault Mr.

1 Clark for not having addressed his mind to it then.

2 MR. HANNA: Yes, Mr. Chairman.

3 THE CHAIRMAN: And Mr. Hynard you are off  
4 the hook.

5 MR. HANNA: Perhaps I might ask then that  
6 Mr. Clark also read the implementation report that's  
7 recently been issued by his Minister dealing with the  
8 Forest Sector Strategy. They both go hand-in-hand.

9 THE CHAIRMAN: Well, again I think, Mr.  
10 Hanna, we are having a little difficulty in providing  
11 documentation to the witness the night before that is  
12 fairly voluminous in order to have to read.

13 Obviously, documents come up from time to  
14 time and it is necessary for witnesses to have a bit of  
15 an opportunity to familiarize themselves with it, but  
16 that doesn't mean to say that during the course of  
17 their cross-examination every witness on the panel or  
18 specific witnesses have to go home at night and spend  
19 five hours reading a pile of documents upon which they  
20 are going to be questioned in the morning.

21 That, unfortunately, is not fair and, you  
22 know, you have got him reading this document  
23 effectively and to force him to read another document -  
24 and I don't know how long this other document you are  
25 talking about is - but I think those documents should



1 have been tendered earlier.

2 MR. HANNA: Mr. Chairman, I appreciate  
3 what you are saying. I think there is two elements to  
4 what you are saying. The first is these reports are by  
5 no means obscure. In fact, I would say to you they run  
6 to the heart of the application before us.

7 I would also say to you that Mr. Clark is  
8 the policy officer with the Ministry directly  
9 responsible in this field and I believe -- and I would  
10 say to you, that if I was appearing before this Board  
11 as an expert in this area I would see it as my duty to  
12 have familiarity with documents of this nature that run  
13 to the heart of both my evidence and my job.

14 THE CHAIRMAN: Well, it may well be and  
15 you may be able to ascertain on your side of the case  
16 that perhaps Mr. Clark isn't doing a very good job, I  
17 don't know.

18 But the point is, you are producing  
19 documents he has never seen, he is telling you  
20 forthrightly that he hasn't reviewed them, and all you  
21 can do is put the question to him and receive his  
22 answer.

23 And what we are looking at is the  
24 fairness of putting not only the question to him,  
25 receiving the answer that he hasn't read it, but also

1 saying, now go home tonight and read them all.

2 There is another way I think you can make  
3 your point and that is to call your own witness and  
4 question your own witness about it and then put the  
5 onus on the Ministry to respond.

6 MR. HANNA: I accept. As I said to you  
7 before, Mr. Chairman, it is extremely difficult for me  
8 to call witnesses within the Ministry and to get their  
9 views of an activity in a program that's central to  
10 this undertaking.

11 But I appreciate what you are saying and  
12 I certainly will be dealing with it in my  
13 evidence-in-chief, and I will try and have to walk that  
14 fine line like we are walking on many things in this  
15 case.

16 MS. BLASTORAH: Mr. Chairman, if I can  
17 just refer to page 21 of the exhibit, you will notice  
18 that --

19 THE CHAIRMAN: This is 589?

20 MS. BLASTORAH: Yes, Exhibit 589. Mr.  
21 Armson is noted as one of the task force members. He  
22 has been here for a number of panels and was available  
23 to be questioned on this document, and it wasn't put  
24 forward at that time.

25 And I just have some problem with Mr.

1 Hanna putting forward documents like this and saying  
2 that his problem is that he can't question witnesses  
3 who are field staff in his own case, but he doesn't  
4 seem to be asking questions that are motivated by that  
5 concern.

6 He is not asking field-oriented questions  
7 of the type that he seems to indicate he is not able to  
8 present in his own evidence.

9 If that's his concern, let him ask  
10 questions that are of that nature and the panel will  
11 try and answer them where they can, but putting forward  
12 this type of document doesn't seem to arise from that  
13 kind of concern.

14 MR. HANNA: Mr. Chairman, perhaps to tell  
15 you where my concern comes from and my reference to  
16 trying to ask these questions to field staff. This  
17 document that I have just referred to talks  
18 specifically about how field decisions should be made.  
19 In fact, that is the whole essence of this strategy, it  
20 is how we should go about timber management planning in  
21 the field, and that is the substance of the question.

22 I appreciate what Ms. Blastorah has said  
23 in terms of the fact that Dr. Armson has been here in  
24 the past. I think, as you appreciate, the Federation  
25 had some problems with Panel 9 and whatever, and that's

1 a problem. I still believe, however, this evidence is  
2 directly pertinent or this information is directly  
3 pertinent to the evidence that this panel is  
4 presenting.

5 THE CHAIRMAN: Well, you can ask them  
6 questions as to what they do in the field and they can  
7 reply as to what they do in the field. If it doesn't  
8 include some of these recommendations because this  
9 field staff is unfamiliar with this report or this  
10 recommendation, I think you are going to just have to  
11 abide by that.

12 MS. BLASTORAH: Mr. Chairman, I would  
13 also point out that the witness statement -- the  
14 statement of evidence, rather, for Panel 3 contains as  
15 Document No. 14 this exact exhibit and it was addressed  
16 at that time by Mr. Armson during Panel 3.

17 And, again, if Mr. Hanna has questions  
18 about how we do do things in that role, it would seem  
19 that that's more appropriate than putting a document  
20 like this and saying: Why don't you do it this way.  
21 And that, again, is something that I think is more  
22 appropriate for his own case.

23 THE CHAIRMAN: I mean, in effect, Mr.  
24 Hanna, what you are dealing with is policy,  
25 essentially. It may be field-oriented policy, but it



1 is policy and we have had some panels that have already  
2 dealt with sort of the broad policy questions.

3 We are now dealing with the operational  
4 on-the-ground activity and this panel is here to tell  
5 us what is done.

6 MR. HANNA: I think we have reached  
7 somewhat of a turning point in the case, Mr. Chairman,  
8 because now we are talking about panels that were  
9 before rather than panels that are ahead.

10 THE CHAIRMAN: Well, we have still got  
11 some to come. I don't know whether you will get into  
12 policy again in 15, but I suspect there will be  
13 probably a bit of an overlap.

14 MR. HANNA: I can assure you that I was  
15 not attempting to talk about policy in this particular  
16 respect, I was trying to look at these specific  
17 recommendations in terms of how those recommendations  
18 are being implemented in the field with respect to this  
19 particular activity, but it certainly was not my intent  
20 to enter, by the way, another exhibit.

21 I was not aware that it was in there and  
22 I am quite prepared to retract that exhibit, seeing it  
23 has already been entered. That was not my intent.

24 THE CHAIRMAN: Well, why don't we just  
25 move on and leave it on the record. I don't think it

1 does any harm being noted twice. Okay.

2 MR. HANNA: Just so I am clear, Mr.  
3 Chairman, can I come back to this tomorrow morning, or  
4 maybe what I will do is see how quickly I move tomorrow  
5 and if I have some spare time at the end, perhaps I  
6 could...

7 THE CHAIRMAN: Well, we are reluctant to  
8 sort of say absolutely not, but I think we owe a duty  
9 to you, Mr. Hanna, as well to indicate that we don't  
10 find it very helpful in terms of renewal and tending  
11 which is what this particular panel is concentrating  
12 on.

13 MR. HANNA: Perhaps I will reserve it  
14 then for Panel 15. I think we then will be talking  
15 about the planning process and a number of the things  
16 they are dealing with --

17 THE CHAIRMAN: Well, it may be relevant  
18 to that panel, I don't know, we will have to wait.

19 MR. HANNA: Well, we will cross that  
20 bridge when we come to it, but I will try and leave it  
21 off for then at least.

22 THE CHAIRMAN: Very well. I think in  
23 light of that, Mr. Clark, you can forego reading this  
24 document tonight.

25 MR. MARTEL: Unless he wants to.

1 MR. CLARK: I think maybe I will anyway.

2 MR. HYNARD: I enjoyed the central part  
3 myself.

4 MR. HANNA: Q. Mr. Clark, I would like  
5 to turn to your witness statement, if we may. I am  
6 looking at page 817, the title page, and it says:  
7 Renewal, Potential -- Socio-Economic Effects and Their  
8 Management (excluding herbicides). I understand  
9 herbicides will be dealt with in Panels 11 and 12 -- or  
10 excuse me, 12 and 13.

11 MR. CLARK: A. That's correct.

12 THE CHAIRMAN: In some fashion.

13 MR. HANNA: Yet to be determined.

14 THE CHAIRMAN: Yet to be determined.

15 MR. HANNA: Q. Can you tell me who on  
16 Panel 15 -- or 12 and 13 will be dealing with the  
17 socio-economic effects of the use of herbicides for  
18 renewal?

19 MR. CLARK: A. I can't tell you right  
20 now because I believe that's a subject, as that relates  
21 directly to human health, that is yet to be discussed.  
22 I don't think we have reached a conclusion on how we  
23 are proceeding with that right now.

24 Q. Okay. Well, excluding human health,  
25 the other socio-economic effects, the ones that you

1 have listed in your evidence.

2 A. The majority of them are human health  
3 in the sense that concerns relative to the use of  
4 herbicides, whether they be berry pickers, trappers,  
5 native people, are generally related to human health  
6 and, for that particular reason, that whole issue is  
7 currently being discussed.

8 Q. I understand that it is under  
9 discussion.

10 MR. HANNA: Perhaps, Mr. Chairman, just  
11 to truncate this, it raises an issue. We have had Mr.  
12 Clark come forward and say that he is not an expert in  
13 socio-economic assesement. It is my understanding in  
14 Panels 12 and 13 that a Mr. Mike Bus will be talking  
15 about comparable evidence to what Mr. Clark has  
16 presented here, excluding human health.

17 THE CHAIRMAN: I don't know. Is that the  
18 case, Mr. Freidin?

19 MR. CLARK: No, he's not. I think if you  
20 look at the evidence you will find that he is dealing  
21 specifically with mechanical and manual -- at least  
22 manual tending.

23 MR. HANNA: Excuse me.

24 MR. CLARK: And is not addressing the  
25 issue of the use of herbicides.



1                   MR. HANNA: Q. What I am trying to  
2                   ascertain is who should I -- I am trying to ask my  
3                   questions so I can be as specific here as possible in  
4                   dealing with this renewal matter and what sort of  
5                   questions I should reserve for there and what I should  
6                   deal with here?

7                   MR. CLARK: A. Your questions regarding  
8                   the use of pesticides, herbicides, in particular,  
9                   should be addressed to Panels 12 and 13.

10                  MR. HANNA: Well, I will leave it for the  
11                  time being, Mr. Chairman.

12                  THE CHAIRMAN: Well, okay. To help you  
13                  out, Mr. Hanna, we are going to leave for the time  
14                  being herbicides and pesticides out of this panel until  
15                  we determine how it is going to be dealt with in 12 and  
16                  13 totally.

17                  And it may be, depending on how we deal  
18                  with herbicides and pesticides in the next two panels,  
19                  that any socio-economic aspect of that which may be  
20                  relevant will probably be dealt with in the context of  
21                  pesticides and herbicides generally.

22                  And it may mean, Mr. Freidin, that it  
23                  might be necessary if we -- depending on what the  
24                  disposition of the Board is on that issue, that if Mr.  
25                  Clark's evidence is at all relevant to the

1 socio-economic impacts and he is the only one, that he  
2 might have to appear in 12 or 13, I don't know, unless  
3 there is somebody else.

4 See, what I am trying to say is, we are  
5 trying to segregate out that issue completely and we  
6 don't want to get into the socio-economic impacts at  
7 all on either the human side or any other side until we  
8 deal with that issue. If it is not going to be dealt  
9 with by anybody other than Mr. Clark in some fashion,  
10 then what I am suggesting is it may be that you may  
11 decide to call Mr. Clark back to deal with that, to the  
12 extent it will be dealt with, but we can't tell you how  
13 it will be dealt with because we haven't yet determined  
14 the extent of the issue.

15 MR. FREIDIN: I agree we should wait and  
16 see the disposition of the motion and we will then  
17 assess our options.

18 MS. BLASTORAH: I am sure Mr. Clark will  
19 anxiously await your decision.

20 MR. MARTEL: He will get another T-shirt.

21 THE CHAIRMAN: So, Mr. Hanna, I think we  
22 are just going to have to skip this whole issue right  
23 now.

24 MR. HANNA: Okay.

25 Q. Can we turn to page 850 of your

1 witness statement, please, Mr. Clark. I believe this  
2 is the table that deals with the stakeholder group  
3 hunters; is that correct?

4 MR. CLARK: A. That's correct.

5 Q. Now, under Concerns, the second  
6 bullet is User Conflicts and the potential  
7 socio-economic environmental effect is the influx of  
8 new hunters, et cetera.

9 How does your Ministry propose to go  
10 about predicting changes in hunting effort as these  
11 types of effects take place?

12 A. I'm not sure I am the best person  
13 here to answer that.

14 THE CHAIRMAN: Well, it's certainly a  
15 relevant question to the evidence of this panel.

16 MR. CLARK: Yes, very definitely.

17 MR. HANNA: Phew!

18 MR. CLARK: I just need a minute to --

19 THE CHAIRMAN: We do expect some kind of  
20 an answer from somebody.

21 MR. CLARK: The reason I am hesitating is  
22 because this particular effect is very much a wildlife  
23 effect and it relates very closely to the evidence  
24 of -- previous evidence of Mr. McNicol and Dr. Euler.

25 THE CHAIRMAN: What about Mr. Hogg

1 giving -- taking a run at it.

2 MR. HOGG: Could I have the question  
3 again, Mr. Hanna?

4 MR. HANNA: Q. Certainly. You see where  
5 I have referred to. Do you have the witness statement  
6 there?

7 MR. HOGG: A. Yes, I do.

8 Q. The second bullet under Concern is  
9 User Conflicts and beside User Conflicts is the  
10 Potential Socio-Economic Environmental Effects and it  
11 then provides a paragraph of what those effects are.

12 Now, can you tell me, with your training  
13 and experience, how you would go about estimating these  
14 socio-economic effects?

15 MR. HOGG: A. It strikes me that  
16 concerns in this area would be brought to our attention  
17 during the preparation of the timber management plans  
18 and probably dealt with really in road use management  
19 strategy in large part. That's very often where these  
20 things get considered.

21 Q. Let's just be clear here. I'm not  
22 asking now how we mitigate it; we have to first decide  
23 what we are trying to mitigate, and I'm trying to  
24 understand how you decide first what you have got to  
25 mitigate before you mitigate.



1 THE CHAIRMAN: How do you identify the  
2 conflicts?

3 MR. HANNA: Q. Well, an influx to me  
4 suggests that there is some change and there is some  
5 change in activities and that suggests to me that  
6 there's some measureable change and how do you measure  
7 that change, how do you anticipate that change on a  
8 basis then to decide what mitigation is appropriate?

9 MR. HOGG: A. I think my answer is  
10 fairly similar in that I think we use the timber  
11 management planning term to identify the concern of the  
12 user and those problems are brought forth. We then  
13 react to that.

14 Q. So you are suggesting then a group  
15 like the Ontario Federation of Anglers & Hunters would  
16 be requested to estimate these influxes and that would  
17 be the basis upon which you would then decide? I am  
18 asking you, because you are suggesting the concern is  
19 put back to the user group.

20 A. If I understand the sense of your  
21 question - perhaps you can help me - you are asking if  
22 these concerns can be quantified or are quantified?

23 Q. Well, that's a good start, all right.  
24 Can they be quantified?

25 A. I think that is very difficult. To

1 my knowledge, that is not done, it is more a  
2 qualitative judgment based upon peoples' concerns.

3 Q. Well, I think the question though was  
4 not whether, but can.

5 MRS. KOVEN: Mr. Hanna, do you have two  
6 questions? Would your first question be: How does MNR  
7 ascertain whether there in fact is an increase in  
8 hunting in an area that has been made more accessible  
9 by roads?

10 MR. HANNA: Or will be, yes.

11 MRS. KOVEN: Or will be and then,  
12 secondly, once it has been determined that there are  
13 more hunters in an area, what does MNR do in terms of  
14 its moose population?

15 MR. HANNA: It was the will be that I was  
16 trying to deal with first, yes.

17 MR. HOGG: Yes, Mrs. Koven, and I think -  
18 and still my mind goes to Panel 14 and this sort of  
19 issue I think will be dealt with there - but if you  
20 will allow me to talk about a little bit here.

21 We do anticipate when a road is in place  
22 people will be using it for recreational purposes and I  
23 know that is of concern to many of our user groups.  
24 Those concerns are brought forth in the timber  
25 management planning process.

1 I should also say though that as moose  
2 managers our position is that we manage moose in a  
3 broad area, wildlife management unit basis and what  
4 happens as a result of opening up an individual area  
5 and the hunting that occurs at the end of that road is  
6 of less significance to us as moose managers than the  
7 overall harvest in the overall management unit. So we  
8 manage on that basis as opposed to managing each and  
9 every road that goes into place.

10 If people have those kinds of concerns  
11 about roads and the conflicts that might arise from  
12 that, those sorts of things are brought forth to us in  
13 the timber management planning process and we react to  
14 it on that basis.

15 MR. HANNA: Q. Mr. Hogg, I think what  
16 you have said is the reason why. I didn't ask you the  
17 question -- you are a moose manager; is that correct?

18 A. Yes.

19 Q. Yes. And what we are talking about  
20 here is not managing moose, we are talking about  
21 managing people. We are talking about socio-economic  
22 effects, not biological effects. Is that not fair?

23 A. Well, I am obviously more comfortable  
24 talking about the harvest.

25 Q. I appreciate that but isn't -- the

1 thrust of this, this is not the biological effects,  
2 this is socio-economic effects, in fact it is written  
3 by, or I presume it's written by Mr. Clark. Is that  
4 not correct?

5 MR. CLARK: A. That's correct.

6 Q. And so -- and it seems quite  
7 appropriate to me that Mr. Clark should be the one to  
8 respond to this, but I am quite happy to have Mr. Hogg  
9 respond to it, but I would like to know what training  
10 you have, Mr. Hogg, in socio-economic analysis,  
11 managing people and predicting the effects -- the  
12 socio-economic effects, which I see are effects on  
13 people rather than effects on moose?

14 A. I don't have that particular  
15 expertise you are looking for, Mr. Hanna.

16 Q. And the expert on this -- well, I  
17 shouldn't use the word expert, the representative of  
18 the Ministry speaking to this is Mr. Clark?

19 MR. CLARK: A. I think I am prepared to  
20 address your question. I had some difficulty in  
21 understanding what it was you wanted.

22 I have certainly had experience as a  
23 manager with the particular situation identified on  
24 this table and had to deal with it and in this you are  
25 going to hear more evidence on the whole issue of



1 access and how we plan for access in Panel 14.

2 I address the issue here because access  
3 often occurs in conjunction with -- almost always in  
4 conjunction with harvest and renewal activities, and so  
5 I have included it as well.

6 You don't need to have a really, really  
7 accurate prediction of how much -- what the influx will  
8 be, although normally after a year's hunting you have a  
9 pretty good idea as a result of check stations and a  
10 variety of other mechanisms which allows you to get an  
11 estimate of the number of hunters that are using a  
12 particular area.

13 But even prior to doing that, the issue  
14 would normally come up in the timber management  
15 planning process which Mr. Hogg identified and it  
16 wouldn't be uncommon, if a road was being put into an  
17 area, for a tourist operator who had been in an area -  
18 and I think I explained this in some detail in one of  
19 my earlier diagrams - to express concern about the  
20 potential conflict between his clients who are hunting  
21 in a particular area and the new hunters that would  
22 come into that area.

23 Now, I feel that we normally have access  
24 to enough information in advance of that occurrence to  
25 make decisions concerning a variety of use management

1 strategies on a road that would allow us to take  
2 measures to, for example, gate the road, gate it on a  
3 seasonal basis...

4 Q. Mr. Clark, I don't want to interrupt,  
5 but I don't want to talk about mitigation yet, I really  
6 want to talk about effects, then we can talk about  
7 mitigation. I think you are entering into mitigation.

8 A. Okay.

9 Q. Now there's something you said there  
10 that caused me some concern and; that is, you go to  
11 tourist operators to tell you about hunters' concerns.

12 A. No, no, no.

13 Q. Oh, I'm sorry, I thought that's what  
14 you said.

15 THE CHAIRMAN: You were using that as an  
16 example of one of the groups out there who might be  
17 impacted by the putting in of a road.

18 MR. HANNA: Q. Well, let's talk about  
19 this group. I prefer to talk about this stakeholder  
20 group, if we could.

21 MR. CLARK: A. Which stakeholder group,  
22 your group?

23 Q. Table 9, not my group, this is --

24 A. Hunters.

25 Q. This is the group of people that are

1 throughout this province.

2 A. And what I have said on the table is  
3 that as a result of access, harvest and renewal you may  
4 get an influx of hunters into an area, because  
5 obviously they see it as a new opportunity to hunt in  
6 an area that has hitherto been relatively inaccessible.

7 Q. Would you agree with me that planning  
8 is a predictive science, you are trying to anticipate  
9 something not monitor something?

10 A. That is certainly true to a large  
11 extent.

12 Q. Well I heard you say was: We'd build  
13 the road and then we'd find out whether there is any  
14 new hunters. I am asking you--

15 A. No, I didn't.

16 Q. --how would you go about anticipating  
17 hunters?

18 A. I certainly did not say that. I  
19 think it's one of those situations that is clearly  
20 understood and is based on years and years of  
21 experience, that when roads are built we get a  
22 significant influx of hunters and it's almost  
23 self-evident to the point where no additional knowledge  
24 is necessary in order to recognize that you may have to  
25 take action to deal with it.

1 THE CHAIRMAN: Does it matter to you, Mr.  
2 Clark, whether it's a specific number of hunters that  
3 actually come in.

4 MR. CLARK: It may have a bearing on it,  
5 but it would be hard to generalize because you have to  
6 look at the particular situation. We may not be  
7 concerned at all. In many ways, roads help to  
8 distribute hunting pressure and provide additional  
9 opportunities and that's a good thing.

10 But if there are other users of the  
11 resource there who may have been there previously, we  
12 may have to look -- we may wish to look more closely at  
13 what the implications of that decision would be to  
14 them.

15 MR. MARTEL: Don't you estimate the  
16 number of people coming in and allocate the number of  
17 tags? I mean you decide that ahead of time. I mean,  
18 you have to now have your tags for next -- for this  
19 coming fall.

20 MR. CLARK: That's right.

21 MR. MARTEL: So in other words, if you  
22 open up a road this spring, you have to have some idea  
23 of the number of tags or licences you are going to  
24 allow in this new area.

25 MR. CLARK: Well, that's correct. And



1 what we are talking about is a redistribution of use so  
2 that you have, in a sense, a fixed amount of use and  
3 then when you put a new road in people may have  
4 traditionally hunted one area, this provides new  
5 opportunities and we are saying moose may be more  
6 visible, there may be a variety of factors that make it  
7 desirable from the point of view of hunters so they'll  
8 go to that area.

9 MR. MARTEL: Mr. Clark, how do you  
10 measure that though? I mean, there must be some sort  
11 of -- is it just a guesstimate in the first year; in  
12 other words, you are allocating a number of moose tags  
13 for a specific area which has not previously been  
14 hunted or hunted very extensively, you open a road up,  
15 you know that it's going to attract more hunters, how  
16 do you allocate or determine the number you are going  
17 to experience in the first year, or is it just...

18 MR. HOGG: Mr. Martel, perhaps I can  
19 attempt to help out here. As I attempted to say in my  
20 previous answer, we manage moose in a very large unit  
21 basis, the wildlife management unit basis and the  
22 effects of any one single road opening are considered  
23 in the main negligible in terms of the harvest over  
24 that whole unit, and our allocation of tags -- moose  
25 hunting tags is over that entire unit.

1                   So the fact that a road goes into a  
2                   recently cut area in this particular year is not of  
3                   great significance to us because we are not managing  
4                   for what happens at the end of that road, we are  
5                   managing for what happens across the entire unit.

6                   MR. MARTEL: Do you shift, or is the tag  
7                   allocated for the whole unit itself and they can go  
8                   where they want pretty well?

9                   MR. HOGG: The tags are assigned for the  
10                  whole unit and people are free to go where they will  
11                  within that unit.

12                  MR. MARTEL: So it doesn't help much then  
13                  in trying to track down how many users you are going to  
14                  have. That's why I think Mr. Clark said at the end of  
15                  the first year you would have an idea of how many  
16                  people went there.

17                  MR. HOGG: We don't attempt to anticipate  
18                  how many hunters with tags are going to go to the end  
19                  of which road in that unit. We anticipate that there  
20                  will be a fair number, that is traditionally what  
21                  happens, but at the same time as new roads are going  
22                  in, other roads are deteriorating and across the entire  
23                  unit the pressure evens out.

24                  And in any case the total harvest of  
25                  moose throughout that entire unit is not going to

1 change because that is fixed according to our tag  
2 allocation.

3 MR. HANNA: I guess the concern I have  
4 here, we are back into managing moose again.

5 Q. My question is not one of managing  
6 moose, but managing people and I come back to Mr.  
7 Clark. And that is: What I have heard - and maybe I  
8 am not hearing clearly - is: You know there's going to  
9 be more hunters when you open up a new road - and I  
10 will not dispute that, I think that is -- I will accept  
11 that as a fact, as much as we can - but would you not  
12 agree with me, Mr. Clark, that there is a thing called  
13 latent demand in terms of recreational activities?

14 MR. CLARK: A. Indeed there is, yes.

15 Q. Could you explain what latent demand  
16 is?

17 A. Well, it's demand that is there that  
18 is not currently being satisfied, but when new  
19 opportunities are provided, those people who might  
20 otherwise have wished to take -- to participate do so.

21 Q. Now, within your limited experience  
22 of consumer surplus, is not the amount of activity a  
23 major factor in determining the benefit derived in  
24 terms of non-timber values?

25 A. Yes.

1 Q. So if I was to try and trade off  
2 increased cost versus increased benefits, I would have  
3 to make some prediction of the amount of increased use  
4 that my activity might arise, or might give rise to; is  
5 that correct?

6 A. Possibly.

7 Q. Now, the paper that I asked you to  
8 read, the Talhelm, Hanna, Victor paper is that a way to  
9 predict how you might have a change, for example, in  
10 hunters along new roads?

11 A. It's a possible way you might do it,  
12 yes.

13 Q. It's possible. It could be done that  
14 way; is that correct?

15 A. Certainly.

16 Q. So it's not that it can't be done,  
17 it's just that you don't do it?

18 A. It's generally correct, yes.

19 MR. HOGG: A. Mr. Hanna, just to expand  
20 a little bit on what Mr. Clark said, we don't worry  
21 particularly about that because we still are  
22 controlling the number of at least active hunters,  
23 people who can shoot bulls and cows anyway through the  
24 allocation of those tags.

25 Q. Shooting cows is not active?



1                   A. No, it certainly is, but to a large  
2 extent the interest is in bulls and cows and that part  
3 of the hunt is controlled through that way. So that no  
4 matter what the latent demand is, it can't increase for  
5 those two kinds of animals anyway.

6                   Q. I think we are mixing up here two  
7 things, Mr. Hogg. We are not guaranteeing to everyone  
8 that he can go out and shoot a moose; are we?

9                   A. No, we are not.

10                  Q. We're guaranteeing that you can have  
11 the opportunity to go out and shoot a moose; correct?

12                  THE CHAIRMAN: Not if you don't have a  
13 tag, you can't; can you?

14                  MR. HANNA: Yes, I believe you can, Mr.  
15 Chairman.

16                  MR. HOGG: Yes, for calves you can.

17                  THE CHAIRMAN: Oh, I am sorry. Okay.

18                  MR. HANNA: Q. So what we are saying is,  
19 we may have say a thousand tags allocated for a unit  
20 but that doesn't say that's how many hunters we are  
21 going to have in that unit. We could have a thousand  
22 hunters, we could 10,000 hunters; is that not correct?

23                  MR. HOGG: A. That is pretty extreme,  
24 but I accept your principle.

25                  Q. Fine. So the tags don't tell us how

1 much activity is going to take place?

2 A. Not entirely, you are correct.

3 MR. HYNARD: A. Mr. Hanna?

4 Q. Oh, Mr. Hynard, I am glad to hear  
5 from you, you have been quiet for a long time.

6 A. My tongue is bleeding again, Mr.  
7 Chairman. Before I make my remarks I would like to say  
8 this doesn't appear to me to have anything to do with  
9 renewal and hardly anything to do with timber  
10 management, but I would like to clarify...

11 THE CHAIRMAN: Well, there's a tenuous  
12 link that roads are required as an offshoot of some of  
13 the activities of renewal and tending and--

14 MR. HYNARD: Yes.

15 THE CHAIRMAN: --and there is an offshoot  
16 from that into the impact on other users.

17 MR. HYNARD: Yes, thank you. But what  
18 really happens here at the end of the road is that we  
19 have a conflict between users.

20 MR. HANNA: Q. Are you speaking  
21 figuratively in terms of the road?

22 A. I'm speaking about figuratively, I'm  
23 referring to this user conflict Table 9 of Cam's.

24 Q. So this road?

25 A. That's right, this road right here.

1       What happens really, what we are really talking about  
2       is that the hunters that are there already in that  
3       area, they are getting in by aircraft, they are getting  
4       in by ATV, they are getting into a camp, they are using  
5       that area and all of a sudden we now have new users  
6       coming in and we have a conflict between users.

7               It's got nothing to with the moose level  
8       or the deer level, it's between users and how do we  
9       predict that it occurs: After you have seen it happen  
10      10 or 20 or 30 times it's a pretty safe bet it's going  
11      to happen the next time too.

12              And the way we hear those complaints is  
13      that the traditional users come into the office and  
14      tell us: Those new guys are shooting deer off our  
15      hounds, they are picking up our hounds and taking them  
16      home, they are standing on our watches, we have always  
17      hunted there, that is our country.

18              And then the new users always say: Hell,  
19      that's Crown land, that is a public road, I would like  
20      to go there too. And that is what we are really  
21      talking about.

22              Q. I appreciate our anecdote, Mr.  
23      Hynard, but I guess the point that I'm looking at --  
24      you're looking at a very negative point of view, I'm  
25      looking at possibly the benefits also.

1                   A. Well, those are benefits. Those new  
2 hunters are having a good time.

3                   Q. Mr. Hynard, can you predict for me  
4 then if we build a new road north of Armstrong how many  
5 hunters we will have along that road, can you tell me?

6                   A. I can't relate to a road north of  
7 Armstrong, no.

8                   Q. Thank you.

9                   A. But I hear that you can see the end  
10 of the earth just north of Armstrong.

11                  Q. At least the North Pole. Mr. Hynard,  
12 can you tell me what data you have collected for your  
13 management unit in terms of change in hunter activities  
14 associated with new roads?

15                  A. Could you repeat it, Mr. Hanna,  
16 please, just so I have that question straight.

17                  Q. What data have you collected for the  
18 Minden Crown Management Unit in terms of changes in  
19 hunter numbers as described in Table 9 for new roads in  
20 your management unit?

21                  A. Well, that table you are referring to  
22 refers to user conflicts. The data that I am  
23 collecting is, I have written letters to each and every  
24 hunt camp that is a traditional user who has a camp in  
25 or near an area of harvest allocations, and I have



1 written the Zone 5 Director for the OFAH advising him  
2 of our timber management plans and asking for their  
3 input.

4 And I haven't heard back from them yet, I  
5 expect to, and the planning team will consider their  
6 input to us.

7 Q. I don't think that answered my  
8 question, but I don't think it's worth pursuing it.

9 Mr. Clark, can we turn to Table 10. I  
10 believe there's a bullet missing besides National  
11 Heritage Preservation. Presuming that there is, can  
12 you look at the fifth bullet, please.

13 MR. CLARK: A. Yes. Loss of Habitat for  
14 Species of Concern.

15 Q. Are these effects that you describe  
16 here only a concern to naturalists, or are they a  
17 concern to other user groups?

18 A. Oh, I think they are probably of  
19 concern to other naturalists and I can only sort of  
20 hide behind the statement I made earlier that lots of  
21 people are naturalists.

22 Anglers are naturalists, fishermen are  
23 sometimes naturalists. I'm not trying to avoid the  
24 issue here, I'm simply pointing out that there is a lot  
25 of overlap.

1                   So when the choice came as to where to  
2                   put that particular effect, I put it under the  
3                   stakeholder heading of Naturalist.

4                   Q.   Now, with other concerns like that  
5                   with some of the other groups, for example cottagers I  
6                   believe -- no, excuse me, I will get one here.

7                   I believe the words you use, all the  
8                   other concerns, plus. Do you recall that. I don't  
9                   have the exact page here.

10                  A.   No.

11                  Q.   I will get one, if you will just hold  
12                  just hold for a minute, please.

13                  A.   Are you talking about --

14                  Q.   Okay. If you can look on page 862,  
15                  the introduction says: "Any of the concerns identified  
16                  elsewhere in this document".

17                  Now, that suggests to me that's a way to  
18                  cover that off, but I don't see any statement of that  
19                  nature being used, for example, for Section 43 on 849  
20                  under hunters; is that correct?

21                  A.   No, I -- I will take your word for  
22                  it.

23                  THE CHAIRMAN: I think, Mr. Hanna, Mr.  
24                  Clark's evidence in his direct examination was that any  
25                  number of stakeholders can have any number of concerns

1 and there is overlap, a hunter could be a naturalist, a  
2 hunter could be a cottager, a hunter could be a  
3 canoeist, a hunter could be any other type of user.

4 And that, Mr. Clark, would go for almost  
5 any of these stakeholders; would that not be correct?

6 MR. CLARK: That's correct. And it  
7 seemed lengthy enough at the time to me and I really  
8 was trying to avoid putting everything into every  
9 table.

10 THE CHAIRMAN: So would you be prepared  
11 to, by implication, insert such a statement on almost  
12 every page?

13 MR. CLARK: Yes.

14 THE CHAIRMAN: On almost every table?

15 MR. CLARK: Absolutely.

16 MR. HANNA: Q. So we could have just  
17 simply just listed the concerns, said: These are  
18 concerns of everybody, these are the potential  
19 socio-economic -- the same socio-economic effects, the  
20 same concern, the same effects and the same measures to  
21 enhance, prevent, minimize, mitigate or correct effects  
22 would apply to all stakeholders?

23 MR. CLARK: A. No, I wouldn't go that  
24 far and that's why I didn't do that.

25 My memory as a manager was that certainly

1       that a lot of these concerns were similar, but  
2       individual groups had their own specific reasons and  
3       attitudes and, as a result, when I looked at people, I  
4       tended to look at them as stakeholders, and that is why  
5       that term is so common in our evidence.

6                       And I, at one point, in thinking about  
7       sort of shortening down the evidence and making it  
8       somewhat more easy to digest, I thought of going that  
9       way and I thought: No, I won't, because in fact it is  
10      the range of stakeholders that we have to deal with  
11      which is one of the real challenges of the timber  
12      management planning exercise that we find ourselves  
13      involved in.

14                     MR. HANNA: I was very confused then how  
15      to use this table because I am now -- Mr. Chairman, you  
16      have indicated to us it could be any of them.

17                     How am I supposed to then interpret -- I  
18      am particularly concerned about the far right-hand  
19      column -- well, both the middle column and the far  
20      right-hand column.

21                     Q. If those columns are different for  
22      the different groups and yet any one of the concerns  
23      that you have identified in here could apply to any one  
24      of these groups but you would use different effects,  
25      well, how do I use this table?



1 MR. CLARK: A. I think we are playing  
2 games here, Mr. Hanna.

3 Q. I'm not playing games.

4 A. If you would allow me to explain. I  
5 have done my best to provide a fairly exhaustive list  
6 of potential effects which you see before you and,  
7 where possible, I have tried to identify those effects  
8 that, on the basis of my discussions with other field  
9 staff, can be identified most clearly with a particular  
10 group.

11 But I do recognize - and I can't make  
12 this more clear - that in certain instances the local  
13 person who is a member of the Rod and Gun Club may also  
14 be a trapper and, for that reason, there may be a  
15 considerable overlap and it is impossible to be  
16 explicit to the point where you pigeon hole every  
17 effect relative to a particular group.

18 So what we tried to do here was show the  
19 range of potential effects bearing in mind -- and I  
20 guess that's why I went to pains to say that the list  
21 is not exhaustive and that various groups can overlap.

22 But I am quite prepared to talk to any of  
23 the stakeholder groups and the issues that have been  
24 identified there and/or others that you may wish to  
25 identify.

1 Q. Well, let me just deal with a few  
2 more things.

3 MR. HANNA: I am really at a loss, Mr.  
4 Chairman, how to use this information. I'm not sure  
5 how this helps us in this application. I don't know  
6 whether that's a fair question to ask this witness, but  
7 I am really at a loss how to use this information,  
8 given what I have just heard.

9 MR. FREIDIN: Mr. Chairman, this witness  
10 has repeatedly explained how those tables are to be  
11 used, he has explained it panel after panel, he has  
12 used the same approach.

13 He has asked questions of this witness;  
14 he may not be happy with the answers, he may not like  
15 the approach that the proponent has taken in this  
16 regard, and he will have a full opportunity to explain  
17 to the Board why he doesn't like the approach, if in  
18 fact that's his view.

19 But it seems to me that he has exhausted  
20 any proper cross-examination on these subject matters  
21 and let's move on to something else.

22 THE CHAIRMAN: Well, Mr. Hanna, the  
23 witness has explained why he put these things together  
24 in the fashion that he did. He did it as well for  
25 other panels in a similar fashion, and I think the

1 Board agrees with Mr. Freidin to the extent that that's  
2 the way the witness conveyed this information and he  
3 has given his reasons why he did it in that fashion.

4 And, again, it may well be that you and  
5 your client is in disagreement with the information or  
6 the lack of information or the completeness of the way  
7 it was done, but that in fact is the way it was done.

8 MR. HANNA: No, I understand that, Mr.  
9 Chairman. I think that's a fair statement. I guess  
10 really what I am driving at is, I am trying to look at  
11 these tables down the road in terms of what they might  
12 mean both within this undertaking and in future and in  
13 the timber management planning process itself, and I am  
14 concerned, for example - and my client's interest  
15 obviously pertains to the hunters group, as I am sure  
16 you appreciate - that there is a number of obvious  
17 concerns, aesthetics, noise reduction, a variety of  
18 things that come under the hunting category as well as  
19 others, and I am just concerned about what the  
20 implications of that are.

21 THE CHAIRMAN: Raise them all in your  
22 side of the case.

23 MR. HANNA: Fine.

24 THE CHAIRMAN: Put somebody in the box  
25 and have them tell us about all of those concerns.

1 MR. HANNA: I will do that, Mr. Chairman.

2 THE CHAIRMAN: And then the Ministry will  
3 be obliged to respond to it in any way they see fit or  
4 not respond to it and rely on the Board to respond to  
5 it at the end of the case.

6 There is a difficulty, Mr. Hanna, in all  
7 applications of this sort for witnesses to anticipate  
8 in advance what other parties would like to see by way  
9 of the evidence being presented.

10 They can be mind readers to a certain  
11 extent, but not completely, and they present the case  
12 in the fashion in which they think will get across what  
13 they feel is necessary for the Board to hear. That is  
14 why the opposition has the opportunity to say: You did  
15 it all wrong, and put in your side of the case.

16 MR. HANNA: I have experienced that on  
17 occasion, Mr. Chairman. I certainly appreciate what  
18 you are saying.

19 THE CHAIRMAN: How do you think we are  
20 doing at this stage in terms of time?

21 MR. HANNA: I understand your question,  
22 Mr. Chairman. Well, you have told me you want to  
23 finish tomorrow night and I will finish tomorrow night,  
24 Mr. Chairman.

25 We made great leaps and bounds this



1 morning -- at the start, I can't remember. Things have  
2 slowed down a bit, but hopefully we can pick it up by  
3 tomorrow. I will finish tomorrow.

4 THE CHAIRMAN: What I am asking is: When  
5 do you feel it would be appropriate to break?

6 MR. HANNA: I would prefer not to come  
7 back to Mr. Clark. That was meant with no offense, as  
8 Mr. Clark knows, it is nothing personal. I just prefer  
9 to move on to another witness tomorrow.

10 THE CHAIRMAN: And how long do you have  
11 with Mr. Clark?

12 MR. HANNA: That's what I am just  
13 assessing here.

14 MR. FREIDIN: Do you want me to help you?

15 MR. HANNA: Okay. I have two issues I  
16 would like to deal with. Can we -- I know the Board is  
17 tired and I certainly -- I must admit, I find it  
18 difficult to imagine a human being have to go through  
19 what you have to go through, but...

20 THE CHAIRMAN: It is our unfortunate fate  
21 in life, we were bad children I think.

22 MR. HANNA: But if we could go for maybe  
23 another half an hour, perhaps I can be finished with  
24 Mr. Clark.

25 THE CHAIRMAN: Well, if you would permit

1 us all a pit stop, okay.

2 MR. HANNA: All right. Well, why don't  
3 we take a 10-minute pit stop.

4 THE CHAIRMAN: We will take a 10-minute  
5 break. Thank you.

6 ---Recess taken at 5:00 p.m.

7 ---On resuming at 5:15 p.m.

8 THE CHAIRMAN: Thank you. Be seated,  
9 please.

10 MR. HANNA: Q. Mr. Clark, I want to deal  
11 with you with one item I think is going to be fairly  
12 brief and that's the matter of stand conversions. Are  
13 you familiar with that term?

14 MR. CLARK: A. Yes, I am, but I  
15 cannot -- if you are going to get into any of the  
16 technical aspects of stand conversion, then I suggest  
17 you talk to one of the foresters.

18 Q. Well, I have every intention of doing  
19 that when I am talking about the technical aspects.  
20 What I am asking you about is the socio-economic  
21 effects of stand conversions.

22 Can you direct me to where in your  
23 evidence you deal with the matter of stand conversions  
24 and its potential socio-economic impact?

25 A. I don't speak specifically to stand

1 conversion anywhere, I don't believe.

2 Q. Is it dealt with in the Tourism  
3 Guidelines?

4 A. No, it isn't.

5 Q. Would you agree that --

6 A. I apologize, I did, on page 854,  
7 Panel 10.

8 Q. Panel 10?

9 A. Table 10, sorry. Table 10, page 854  
10 under Naturalists. One of the concerns relative to the  
11 general --

12 "The general concern relative to  
13 eco-system diversity was forest stand  
14 conversion to tree species of only  
15 economic value may result in a reduction  
16 in the presence of some forest tree  
17 species thereby decreasing habitat  
18 diversity and increasing the  
19 susceptibility of the regenerated forest  
20 to losses through insects and disease."

21 Q. And that concern is under Species.

22 Is that meaning wildlife, flora and fauna species; is  
23 that what you are referring to there?

24 A. Yes. Well, it could be either.

25 Q. Well, yes, one or the other.

1 A. Correct.

2 Q. Now, is there any other place in your  
3 witness statement that you make reference to stand  
4 conversions?

5 A. I don't believe so.

6 Q. Would you agree that monoculture,  
7 conifer stands five kilometres long and half a  
8 kilometre wide or more are not overly attractive and  
9 can have negative socio-economic impacts on forest  
10 users?

11 A. I'm not sure I can remember exactly  
12 what you said, but I don't think I would want to agree  
13 to that.

14 Q. I will read it again to you. Would  
15 you agree that monoculture, conifer stands five  
16 kilometres long and half a kilometre or more wide are  
17 not overly attractive and can have negative  
18 socio-economic impacts on forest users?

19 A. No, I wouldn't agree or disagree with  
20 that.

21 THE CHAIRMAN: And do you mean by  
22 monoculture one specie?

23 MR. HANNA: One species, one age-class,  
24 Mr. Chairman.

25 Q. I'm sorry?



1 MR. CLARK: A. No, I wouldn't agree with  
2 that.

3 Q. You would disagree with it?

4 A. Well, I don't agree with your  
5 statement.

6 Q. Well, what don't you agree with?  
7 I just want to make sure I understand what you are  
8 disagreeing with.

9 A. Well, you said they were -- they  
10 could be, I believe you said unattractive?

11 Q. Visually unattractive. I'm happy --  
12 you are the socio-economic person, tell me how they  
13 might be unattractive?

14 A. Oh, I am suggesting that they are not  
15 necessarily unattractive.

16 Q. So you are saying -- are they more  
17 attractive then?

18 A. I'm not making a judgment at all.  
19 You have indicated a very hypothetical situation and I  
20 am not prepared to respond to it.

21 If I were in a situation where I could  
22 see what you were talking about and respond to it on  
23 that basis, I could probably give you my personal  
24 opinion.

25 Q. Mr. Clark, are you familiar with the

1 extensive literature done on visual analysis and visual  
2 quality and quantifying that?

3 A. Yes, I'm aware of some of it.

4 Q. And are you familiar with anything  
5 published dealing with monoculture stands and their  
6 visual quality?

7 A. No, not specific articles dealing  
8 with that.

9 Q. I see. But you have not evaluated  
10 that anywhere in your witness statement?

11 A. No, I think what we said in our  
12 witness statement is disruption that results from  
13 either harvesting or renewal activities may -- visual  
14 disruption may appear to be unsightly or undesirable  
15 from the point of view of certain stakeholder groups  
16 and that through the application of the Tourism  
17 Guidelines we would try and arrive at a solution that  
18 was acceptable to those people.

19 I think the other point I made was that  
20 these judgments are very subjective and, as a result of  
21 that, we rely on the planning process and the input  
22 that we receive from people to assist us in making  
23 those decisions.

24 Q. So this is another example where you  
25 could quantify the benefits but you don't, you use

1 subjective approaches?

2 A. All of those approaches involve a  
3 degree of subjectivity as I recall. It has been some  
4 time since I have looked at them in detail. All of  
5 them rely on judgment exercised by people and, given  
6 the variety of situations that we deal with, we find  
7 the most appropriate way to deal with it is on a  
8 site-specific basis with a general direction provided  
9 in the guidelines, the Tourism Guidelines.

10 Q. On page 823 of your witness  
11 statement, I believe at the top there, the sentence  
12 that's underlined indicates that site preparation  
13 activities are relatively minor and short duration;  
14 correct?

15 A. That's correct.

16 Q. Now, I see no reference there to  
17 regeneration with respect to its time horizon. Would  
18 you agree with me that socio-economic impacts of  
19 regeneration may last up to a century or longer?

20 A. Well, it's possible. I think it  
21 really depends on the value that you are trying to  
22 protect or re-establish.

23 Q. No, that wasn't my question. My  
24 question was that the decision that you make when you  
25 are doing regeneration you may have to live with for a

1 full rotation which can be up to a hundred years or  
2 more?

3 A. I'll agree with that.

4 Q. Mr. Clark, I believe one area that  
5 you did ask the Board to be qualified in was conflict  
6 resolution; is that correct?

7 A. That's right.

8 Q. Is it fair for me to assume that as  
9 an expert in conflict resolution that you are current  
10 with the literature in this particular field? Is that  
11 not the requirement of an expert -- one of the  
12 requirements of an expert, to keep abreast of new  
13 things in the field?

14 A. It may be. My reason for saying that  
15 I have some qualifications in that area is I have  
16 solved or dealt with a great many conflicts at the  
17 local level, and I feel fairly confident that I have a  
18 fairly good working knowledge of those kinds of  
19 situations and how to deal with them.

20 THE CHAIRMAN: But would you be  
21 considered an expert in conflict resolution in terms of  
22 (a) your academic background; and (b) any professional  
23 qualifications in that area, or are you just relying  
24 for your expertise on the basis of your experience over  
25 the years in practically attempting to solve problems?



1 MR. CLARK: It has probably been 17 years  
2 since I was an academic and, as the years go by, I  
3 think you increasingly rely on the experience that you  
4 gain on the job, and it would be dishonest of me to  
5 suggest that my academic qualifications are the source  
6 from which I feel I get my expertise, if you want to  
7 call it that.

8 Conflict resolution is normally an issue  
9 that's dealt with in both graduate and undergraduate  
10 degrees in resource management, but I can tell you it's  
11 of nominal value relative to the things you learn on  
12 the job, except in the most extreme cases where that  
13 was an area of specialization.

14 MR. HANNA: Q. Is it your view that  
15 environmental mediation is a form of conflict  
16 resolution?

17 MR. CLARK: A. Yes. I'm not just sure  
18 how you are defining environmental mediation, but...

19 Q. Well, have you read the report by the  
20 Canadian Environmental Assessment Research Council on  
21 environmental mediation?

22 THE CHAIRMAN: I hope you are not going  
23 to refer to every article in that report.

24 MR. HANNA: Just one, Mr. Chairman.

25 MR. CLARK: I'm aware of the report, but

1 I would certainly like to see the article.

2 MR. HANNA: Q. It was published by our  
3 Chairman. I believe it is quite an enlightening paper.  
4 Have you read that paper?

5 MR. CLARK: A. Not recently.

6 Q. Have you read his 1984 paper?

7 A. I suspect I probably have. I did  
8 take a course that the Chairman gave at one point prior  
9 to the hearings that included some articles related to  
10 that subject.

11 Q. I won't ask you for your opinion on  
12 that paper. Mr. Clark, can you tell me in your  
13 experience the primary roots of conflict in resource  
14 management decision-making?

15 A. Perhaps you could ask that again?

16 Q. Sure.

17 A. Could you say it in a way that I  
18 could perhaps understand a little better, I'm not  
19 sure...

20 Q. Well, I will read it again and if --  
21 sometimes I read my questions too quickly, and if you  
22 don't understand when I read it slowly, I will try and  
23 rephrase it.

24 Can you tell me, in your experience, the  
25 primary roots or causes of conflict in resource

1 management decision-making?

2 A. Oh goodness, they are numerous.

3 Q. I am looking for generic type causes  
4 here.

5 A. Different value systems.

6 Q. Mm-hmm.

7 A. Different objectives. You may want  
8 to lead me a little here.

9 Q. Sure, I can give you --

10 A. I am trying to --

11 Q. Mr. Clark, would you agree with me  
12 that misinformation among the parties can lead to  
13 conflict?

14 A. That can be a problem.

15 Q. And would you agree that distrust  
16 among the parties can led to conflict?

17 A. Most definitely.

18 Q. And I believe you used values and  
19 objectives; the terms I had were values and priorities  
20 but one in the same.

21 A. Fine. Yeah.

22 Q. Those capture a pretty major share of  
23 the source of conflict?

24 A. Well, certainly they are very  
25 definitely at the root of many of the issues that we

1 would normally deal with.

2 Q. What is your view as to the  
3 relationship between the concept of traceability and  
4 accountability in environmental assessments and  
5 principles of conflict resolution?

6 MR. FREIDIN: Mr. Chairman, that sounds  
7 like an echo from Panel 8 over and over, and there is  
8 one thing that I will object strongly to is getting  
9 back into questions about the essential elements of  
10 environmental assessment and the traceability and all  
11 those things. We have dealt with that at length in  
12 more than one panel.

13 MR. HANNA: Mr. Chairman, I appreciate  
14 that and I certainly do not want to go back over ground  
15 we have covered before. I think we are all trying to  
16 move forward as quickly as we can.

17 I guess where I am coming from on this is  
18 this: I see Mr. Clark as being a pivotal -- or his  
19 evidence being pivotal in trying to deal with, with  
20 respect to renewal activities, how you deal with user  
21 conflicts.

22 THE CHAIRMAN: And he's told you.

23 MR. HANNA: Right. And I am simply  
24 trying to follow that just for a moment to see how he  
25 sees the subjective approach that he has explained to



1 us, how that leads to conflict resolution on an area  
2 that he's come forward before this Board and said that  
3 he's qualified and an expert --

4 THE CHAIRMAN: But he's testified, Mr.  
5 Hanna, extensively to the extent that they have a  
6 planning process where the concerns of various  
7 stakeholders are raised, there's contact made between  
8 the stakeholders and the Ministry, the Ministry  
9 discusses the various concerns of various stakeholders,  
10 sometimes they sit down with numerous stakeholders who  
11 are in conflict with each other and they attempt to  
12 resolve the problems.

13 And that I believe, Mr. Clark, is how you  
14 described the practical side of conflict resolution  
15 essentially?

16 MR. CLARK: That is correct.

17 THE CHAIRMAN: I am condensing a lot of  
18 the evidence that came in obviously, and that is how he  
19 sees, as I understand it, his role on behalf of the  
20 Ministry of trying to resolve basic conflicts between  
21 users who have different interests.

22 Now, how much further beyond that can we  
23 go in this area and relating it all, of course, to  
24 renewal and tending?

25 MR. HANNA: I have every -- that is the

1 purpose of my questioning, sir, is to try and keep it  
2 in that context.

3 I guess simply the point that I was  
4 trying to deal with is this question of misinformation  
5 and distrust and how that is dealt with in -- he's the  
6 one who has talked about user conflicts and whatever  
7 and how he sees that being dealt with in the approach  
8 that he is using.

9 THE CHAIRMAN: Okay. Mr. Clark, let's  
10 ask specific question.

11 You have two users, they are in conflict  
12 with each other; you want to put in a road for example  
13 to assist in regeneration activities and the two users  
14 distrust each other, how do you deal with the conflict?

15 MR. CLARK: Well, that scenario is one  
16 that I think everybody here can identify with and it's  
17 one that we deal with regularly, and so I am able to  
18 answer from the perspective of a one-time district  
19 manager.

20 But when that happened there was the  
21 formalized planning process which was in place which we  
22 have described in detail. But at a very practical  
23 level I always felt that the important thing was to get  
24 the parties together around the table, put the facts as  
25 we understood them on the table and discuss them.

1                   THE CHAIRMAN: Do they have an  
2                   opportunity at that stage to contradict the facts as  
3                   you see them?

4                   MR. CLARK: Absolutely. It wasn't  
5                   uncommon. In many instances in my memory - in the time  
6                   isn't that distant - I would know the parties involved  
7                   and that gets back to some of the evidence that I  
8                   presented earlier and Mr. Pyzer presented.

9                   It wasn't always the case, but I might  
10                  well get involved in a preliminary meeting with one  
11                  party and then a meeting with the other and if I felt  
12                  the unit forester or the wildlife biologist needed to  
13                  be there to assist in explaining the situation and  
14                  explaining our point of view, they were there.

15                  Having heard from both groups, it wasn't  
16                  uncommon for me to encourage the three of us to get  
17                  together and discuss the issue. And I want to stress  
18                  that this wasn't done in a vacuum, when you were  
19                  dealing with a timber management planning issue, these  
20                  meetings are documented and that material that arises  
21                  out of that process is in the supplementary  
22                  documentation.

23                  Now, it's a softer and somewhat more  
24                  subjective approach to arriving at solutions, but it's  
25                  one that is people oriented and involves discussion.

1 And I think from my point of view my primary role was  
2 one of facilitating and trying to bring the parties  
3 together and trying to avoid polarization.

4 Those are the kind of operative words  
5 that I use.

6 THE CHAIRMAN: Okay. And then you go  
7 through this process, and at the end of the process you  
8 may sometimes receive agreement on both sides: Yes,  
9 this is a good compromise, we can both live--

10 MR. CLARK: That's right.

11 THE CHAIRMAN: --with this proposed  
12 course of action.

13 MR. CLARK: That's correct.

14 THE CHAIRMAN: I assume as well you  
15 sometimes run into situations where one side says: I  
16 can't live with that.

17 MR. CLARK: That's correct.

18 THE CHAIRMAN: And the other side says:  
19 I can.

20 MR. CLARK: That's right.

21 THE CHAIRMAN: Okay. As I understand the  
22 process, at some point in time somebody makes a  
23 decision--

24 MR. CLARK: Yes.

25 THE CHAIRMAN: --one way or the other, if



1 it can't be resolved to the satisfaction of both.

2 MR. CLARK: That is correct.

3 THE CHAIRMAN: I take it that goes right  
4 up to the district manager stage, if necessary?

5 MR. CLARK: That's right. And the  
6 cornerstone in that process, to a large extent, or the  
7 keystone as far as I was concerned was the business of  
8 having had the meeting, documented the meeting and  
9 having it on record and having it as part of the  
10 supplementary documentation of the plan because if the  
11 party was not satisfied with the decision, whatever the  
12 decision was, whether it was harvest or renewal  
13 activity, there was a record of the meetings that were  
14 held, participants who were there, the issues that were  
15 arisen - and I used the Lac Seul ferry crossing  
16 proposal as an example, where there were minutes of the  
17 meeting, the economic or the financial analysis I will  
18 call it that were done concerning the costs of the road  
19 options and the ferry options were documented - and to  
20 me it was a very traceable and I might add  
21 understandable decision-making process.

22 THE CHAIRMAN: And I take it if one of  
23 the unsatisfied parties was still unsatisfied because  
24 the district manager's decision went against him, so to  
25 speak, he could go beyond that, he could go all the way

1 up to the Minister, the Premier, or whoever; is that  
2 correct?

3 MR. CLARK: And I remember stressing this  
4 early in Panel 7 I believe it was, this whole business  
5 of accountability and fact that one of the reasons you  
6 had to be careful -- have to be careful about  
7 documenting the procedure and ensuring that you have  
8 good material from which to make a decision is simply  
9 because that is exactly what does happen.

10 I used to say to my staff: I don't care  
11 whether it's a primary, secondary or tertiary road, if  
12 you mess up the ADM North won't care either.

13 And I guess there's a little message  
14 inherent in that and it's simply that all these  
15 decisions count and we have to make them right and we  
16 don't always make them right, but I think we follow the  
17 general process that is identified within the context  
18 of the broader timber management planning process that  
19 we have talked to and will talk to.

20 THE CHAIRMAN: Okay. And just to  
21 continue for one more second. That is how you resolve  
22 conflicts in the Ministry?

23 MR. CLARK: Generally.

24 THE CHAIRMAN: Generally. And do you  
25 feel that that process is adequate for the types of

1 conflicts that you attempt to resolve?

2 MR. CLARK: Yes.

3 THE CHAIRMAN: Your witness.

4 MR. HANNA: Thank you, Mr. Chairman.

5 Q. So if I can capsule what you have  
6 just said, Mr. Clark, one way to reduce misinformation  
7 and distrust is to clearly document all decisions?

8 MR. CLARK: A. That is correct.

9 Q. Is that the essence of what I've just  
10 heard?

11 A. Yes.

12 Q. Would you agree with me then that  
13 this can be provided by providing explicit detailed  
14 information to the public on how these decisions are  
15 reached?

16 A. I believe that's true.

17 Q. And perhaps the Chairman has already  
18 touched on this and I'll just perhaps reiterate what he  
19 said and; that is, that even though we get rid of  
20 distrusts, misinformation, we are always going to  
21 have - when we have got multiple stakeholders and  
22 whatever - fundamentally different values and that's  
23 where professionals like yourself come in and, if  
24 necessary, pass it up to the political powers to make  
25 those final decisions where there is basically

1 fundamentally different values.

2 And that is what your role is; is that  
3 correct?

4 A. To some extent, yes.

5 MR. HANNA: Mr. Chairman, that's the --

6 THE CHAIRMAN: Okay. Now, with respect  
7 to tomorrow, Mr. Hanna, we are prepared to start  
8 relatively early.

9 I don't know if you are aware, Mr.  
10 Martel's transportation away from here by a direct  
11 route is 4:10; by an indirect route it's 7:10 to  
12 Toronto and if the plane is late he doesn't get out of  
13 Toronto tomorrow night.

14 MR. HANNA: Mr. Chairman, I can answer  
15 that if you tell me what the weights and rates are in  
16 terms of the alternatives?

17 THE CHAIRMAN: Well, what I am trying to  
18 say is, we are trying to get an estimate of how long  
19 you will be which may, to some extent, determine when  
20 we will start in the morning and we would like to  
21 finish in time for Mr. Martel to make his plane, but if  
22 it's impossible, we will have to consider the later  
23 option.

24 MR. HANNA: I am not -- I want to make  
25 sure I understand the alternatives here. I realize the



1 difficulty that Mr. Martel has with the connection in  
2 Toronto. Are we talking about the 4:10 flight; is that  
3 what you're referring to, Mr. Chairman?

4 THE CHAIRMAN: Well, that's what we would  
5 like to shoot for, if possible, and we are willing to  
6 start early in the morning to accommodate that, if  
7 necessary.

8 If it's absolutely out of the question,  
9 then we would like to know now and that may affect our  
10 starting time tomorrow.

11 MR. HANNA: Can I just speak to Mr.  
12 Quinney for just one second.

13 THE CHAIRMAN: Yes,

14 MS. CRONK: Mr. Chairman, just while Mr.  
15 Hanna is doing that perhaps I could take the  
16 opportunity -- I have distributed to my friends the  
17 typewritten version of Exhibits 580 and 581 and I would  
18 like to provide the Board a copy.

19 THE CHAIRMAN: Very well.

20 MS. CRONK: (handed)

21 THE CHAIRMAN: Those were the flip  
22 charts; is that correct?

23 MS. CRONK: Yes.

24 MR. HANNA: Mr. Chairman, I have  
25 consulted Mr. Quinney. He raised a point that I hadn't

1 considered and that is, I believe Mr. Freidin had  
2 indicated that the information he brought forward, the  
3 additional information on the Interim Directive might  
4 be discussed tomorrow morning.

5 So I just don't know how much time that  
6 might take. So perhaps I could ask him first.

7 THE CHAIRMAN: Well, I understand it  
8 should take less than a half hour because it's only the  
9 industry that wishes to question. Is that correct, Mr.  
10 Cassidy?

11 MR. CASSIDY: That's correct. I would be  
12 very surprised if I went beyond half an hour in total.

13 THE CHAIRMAN: So that's the only  
14 addition in the morning. So we would just plug in, if  
15 necessary, the extra half hour to accommodate you.

16 MR. HANNA: Can I ask one more question  
17 of Mr. Martel. What time do you have to leave to catch  
18 your plane.

19 MR. MARTEL: Well, I think I can make  
20 arrangements for Mr. Mander to go out and get me a  
21 boarding pass and I can run it pretty thin, but I have  
22 to be there by about ten to four.

23 THE CHAIRMAN: Say quarter to four, ten  
24 to four.

25 MR. HANNA: So we could go to that late?

1 THE CHAIRMAN: Yes.

2 MR. MARTEL: No, no. The plane leaves at  
3 five after. I want to get there.

4 THE CHAIRMAN: You will run down the  
5 runway.

6 MR. MARTEL: I am fast but not quite that  
7 fast. I have to leave here about 3:30 to be there for  
8 about a quarter to four, but I have to send Mr. Mander  
9 on ahead to get me a boarding pass and come back and  
10 pick me up.

11 MR. HANNA: I will undertake to end by  
12 3:30, Mr. Chairman.

13 THE CHAIRMAN: Okay. Now, would it  
14 assist you to start at 8:30?

15 MR. HANNA: Yes. I presume at 8:30, the  
16 half hour to nine is going to be used by...

17 THE CHAIRMAN: Or if necessary, we are  
18 willing even to start at eight. We want to accommodate  
19 you the best we can.

20 MR. HANNA: No, no, I understand. I  
21 think you have given me some direction here and I have  
22 to go back -- it seems to me my regular activity when I  
23 finish after the day is to go back and re-examine my  
24 examination. But I would like to try to end by 3:30.

25 MS. BLASTORAH: Mr. Chairman, one other

1 matter was to be dealt with tomorrow, I think the  
2 briefing on the next site visit was to take place as  
3 well.

4 THE CHAIRMAN: Can that not be done in  
5 wherever the kickoff point is, Kapuskasing?

6 MS. BLASTORAH: Mr. Kennedy?

7 THE CHAIRMAN: Is that not possible early  
8 that morning?

9 MR. KENNEDY: Yes, it is. It can be done  
10 at that time.

11 THE CHAIRMAN: Because we are not going  
12 to change particularly any of the places we are going  
13 to visit, those have already been ascertained,  
14 arrangements have be made. It's just to familiarize  
15 the participants with what they are going to see and we  
16 have done it in the past, occasionally had a morning  
17 briefing before we go out.

18 So we are willing to put in the time in  
19 the morning, if that is possible, Mr. Kennedy.

20 MR. KENNEDY: That is fine.

21 MS. BLASTORAH: If that's agreeable to  
22 the Board and the other parties, we haven't heard that  
23 anyone was coming in specifically to hear that, so I  
24 assume --

25 THE CHAIRMAN: It hasn't been the usual



1 course in the past site visits, but...

2 MS. SEABORN: Mr. Chairman, Ms. Murphy  
3 was kind enough this afternoon to distribute to the  
4 parties who were in the room a site visit itinerary and  
5 I can just pass that on to our client.

6 THE CHAIRMAN: Very well. And again, you  
7 know, we don't intend to really discuss the details of  
8 the site visit because, as far as we are concerned,  
9 they have been discussed and the decision is made on  
10 that site visit.

11 So, if we start at 8:30, will that  
12 accommodate you, Mr. Hanna?

13 MR. HANNA: Yes, it will, Mr. Chairman.

14 THE CHAIRMAN: Very well. We will  
15 adjourn until 8:30 tomorrow.

16 Thank you.

17 ---Whereupon the hearing adjourned at 5:45 p.m.,  
18 to be reconvened on Wednesday, May 17th, 1989,  
commencing at 8:30 a.m.

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